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INTERNATIONAL LAW ASSOCIATION.

INTERNATIONAL TRIBUNALS:

A Collection of the various Schemes which have been propounded, and of Instances since 1815.

FOR THE USE OF

The Special Committee on Arbitration.

BY

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INTERNATIONAL TRIBUNALS.

THE AMPHICTYONIC COUNCIL.

As this is the first of the kind known to history, and has been generally referred to as a model of what is desirable, an account of it is necessary.

1.—The Association.

The Council was the deliberative assembly of an Association formed among independent neighbouring tribes of Greece, for the regulation of their mutual intercourse. There were many such associations in ancient Greece. There was one, however, which gradually expanded into so comprehensive a character, and acquired so marked a predominance over the rest as to be called The Amphictyonic Assembly or League.

2.—Its Antiquity.

"Such festival-associations or amphictyonies," says Curtius, "are coeval with Greek history, or may even be said to constitute the first expressions of a common national history."

The League was supposed to be very ancient, as old even as the name of Hellēnes, for its founder was said to be Amphictyōn, the son of Deucalion and brother of Hellēn, the common ancestor of all Greeks. Its origin is, therefore, obscure.

3.—Its Name

Denotes a body referred to a local centre of union. The Greek word Amphictyones meant literally "dwellers around," but in a special sense was applied to populations which, at stated times, met at the same sanctuary to keep a festival in common, and to transact common business.

4.—Its Extent.

The Association consisted of twelve sub-races out of the number which made up entire Hellas. At first it comprehended most of the Greek States north of the Isthmus, although in the 14th century B.C., Acrisius, King of Argos, was, according to Strabo, said to have brought the Confederacy into order, and fixed the number of its members, the distribution of the votes in the Council, and the nature of the Causes which were to be subject to its jurisdiction. The Dorian conquest, which was subsequent to this event, greatly extended the salutary influence of the Amphictyonic League. For the Dorians, being constituent members, continued to attend its meetings after they had settled beyond the mountainous isthmus of Corinth. All the provinces which they conquered, gradually assumed the same privilege. The League thus became representative of the whole Grecian name, consisting not only of the three original tribes of Ionians, Dorians and Æolians, but of the several sub-divisions of these tribes, and of the various communities formed from their promiscuous combination.

5.—Its Object.

Primarily the League is said to have been a confederacy entered into by the petty princes of the provinces of the northern districts of Thessaly, which were peculiarly exposed to the dangerous fury

of invaders, for their mutual defence (Marm. Oxon, E.S.). But this institution, which had been originally intended to prevent foreign invasion, was found equally useful in promoting domestic concord (Dr. Gillie's History of Ancient Greece, I., 14). Grote, however, describes the Council as "an ancient institution, one amongst many instances of the primitive habit of religious fraternisations, but wider and more comprehensive than the rest —at first purely religious, then religious and political at once, lastly more the latter than the former." (Grote, II. 253.)

6.—The Council.

The affairs of the whole Amphictyonic body were transacted by a Congress composed of deputies sent by the several States, according to rules established from time immemorial.

7.—Annual Assemblies.

Two meetings of the Council were regularly convened every year, one in the spring, at Delphi, the other in the autumn, near the little town of Anthela, in the Pass of Thermopylae, where it was held at a temple of Demeter (Ceres).

Here, says Freeman (Hist. of Fed. Gov., p. 101), "a body of Greeks, including members from nearly all parts of Greece, habitually met to debate on matters interesting to the whole Greek nation, and to put forth decrees which, within their proper sphere, the whole Greek nation respected."

8.—Popular Assembly.

Besides the Council, which held its sessions either in the temple or in some adjacent building, there was an Amphictyonic Assembly (*ἐκκλησία τῶν Ἀμφικτυονῶν*), described by Æschines (*Ctes.* § 1247), which met in the open air, and was composed of persons

residing in the place where the Congress was held, and of the numerous strangers who were visiting it from curiosity, business, devotion, or other reason.

It would seem, however, that this Assembly was called together only in extraordinary cases, as when its aid was required for carrying into execution the measures decreed, or, when it was thought necessary, to appoint an extraordinary Convention in the interval between two regular times of meeting.

9.—Right of Representation.

The order in which the right to send Representatives to the Council, was exercised in the various States composing one Amphictyonic tribe, (which as a unit was entitled to representation), was, perhaps, regulated by private arrangement; but unless one State usurped the whole right of its tribe, it is manifest that a petty tribe, forming but one community, had greatly the advantage over States in the same tribe, such as Sparta or Argos, which could only be represented in their turn, and but rarely in proportion to the importance of the tribe to which they belonged. This right would have been of still less value if it had been shared among all the colonies of an Amphictyonic tribe; and this was the case with the Ionians, but the Æolian and Dorian colonies seem not to have claimed the same privilege. (*Thirlwall.*)

10.—Members of the Council.

These consisted of delegates from each of the twelve races, (or if the Hellenes be treated as a race, they must be called sub-races), who were known as Hieromnemones (*i.e.*, wardens of holy things) and Pylagoræ.

11.—Their Functions.

The duties of these deputies are very difficult to determine. According to one author, who gives as his authority Suidas (Ad

Voc.), these were respectively entrusted with the religious and civil concerns of their constituents. Thirlwall says that the latter was the body entrusted with the power of voting, while the office of the former consisted in preparing and directing their deliberations, and carrying their decrees into effect. Grote says that the twelve members of the league sent sacred deputies, including a chief, called the Hieromnemon, and subordinates called the Pylagoræ (II. 248). Dr. Abbott ("A History of Greece," p. 28) says: "The deputies were themselves of two classes, the Hieromnemones and the Pylagori. The first were chosen by lot, twenty-four in number; one for each of the twenty-four votes, which they alone were competent to give. The Pylagori, on the other hand, whose number was not fixed, were orators elected for the especial purpose of supporting the interests of their states by their eloquence or skill in debate. The Hieromnemones formed the assembly in the stricter sense, but they could call the Pylagori before them, and occasionally they summoned a universal assembly of all the members of the tribes present at the time. But neither the Pylagori nor the assembly could reverse the decision of the Hieromnemones."

12.—Their Appointment.

At Athens three Pylagoræ were annually elected, and one Hieromnenon was appointed by lot; the practice of other states is not known.

13.—The Oath.

The original objects, or at least, the character of the institution, seems to be faithfully expressed in the terms of the oath preserved by Æschines, which bound the Members of the League not to destroy any Amphictyonic town, not to cut off any Amphictyonic town from running water, but to punish to the utmost of their power those who committed such outrages; and

if any one should plunder the property of the god, or should be cognizant thereof, or should take treacherous counsel against the things in the temple, to punish him with foot and hand and voice and by every means in their power.

"Je jure," disait chaque député, "de ne jamais détruire aucune des villes du corps des Amphictyons, de ne pas détourner le lit des fleuves, et de ne pas empêcher l'usage de leurs eaux courantes ni en temps de paix ni en temps de guerre. Et si quelque peuple enfreint cette loi, je lui déclarerai la guerre et je détruirai ses villes. Que si quelqu'un pille les richesses du dieu, ou se rend complice en quelque manière de ceux qui toucheront aux choses sacrées, ou les aide de ses conseils, je m'emploierai à en tirer vengeance de mes pieds, de mes mains, de ma voix et de toutes mes forçes." (Calvo, 3rd Ed., I. 622.)

14.—Voting.

The constitution of the Council rested on the theory of a perfect equality among the tribes represented by it. Each tribe had two votes in the deliberations of the Congress. Each had originally only one, but with the growth of the Ionians and Dorians, and the division of Locris into two sections, it became necessary to make a change. The original vote was therefore doubled (or split) so that each tribe which remained solid had two votes, but in the case of those which were divided, one vote was assigned to each of the two sections.

15.—Decisions.

These, says Lempriere ("Class. Dict."), "were held sacred and inviolable, and even arms were taken up to enforce them." When violations of the sanctuaries, or of popular right, took place, the assembly could inflict fines, or even expulsion, and a state that would not submit to the punishment had a "holy war" declared against it. Such a war was dreaded even in Athens:

"You are bringing war into Attica, Æschines," was the taunt of Demosthenes, "an Amphictyonic war." The Council had no organised means of enforcing its decrees; still it always had partisans, who undertook the duty.

16.—Council not a National Assembly.

The Amphictyonic Council, says Abbott (Part II., 29), was not a national assembly; it neither conducted the policy of Greece, nor had it power to settle disputes between great cities. Nor was the Association national in the sense that it included the whole of Greece. Freeman says, that the Amphictyonic Council represented Greece as an Ecclesiastical Synod represented Western Christendom, not as a Swiss Diet or an American Congress represents the Federation of which it is the common legislature (p. 98), but he is careful to add (p. 102), "The Amphictyons were a religious body, but they were not a clerical body," that is, they were not officially a religious body.

17.—But a Peace Organisation.

The Association, says Abbott, was as powerless as any other to prevent strife and bloodshed among the members, some of whom, such as the Phocians and Thessalians, were deadly enemies. But a number of adjacent tribes could not meet together twice a year to share in a common sacrifice, and, it might be added, to discuss common interests, without feeling that they were united by a peculiar tie. This feeling was shown in the oath. And the oath was not wholly without effect; it marked a departure from the savage warfare depicted in the Homeric poems, and it supplied the Greeks with an ideal, which was present to their minds, even when they failed to act up to it. The political philosophers of the fourth century, when regulating the practice of war among the Greeks, proceeded on the lines laid down in the Amphictyonic oath. The Hellenes were to quarrel "as

those who intend some day to be reconciled;" they were to "use friendly correction," and "not to devastate Hellas, or burn houses, or think that the whole population of a city, men, women and children, were equally their enemies, and therefore to be destroyed." (Abbott, Part II., p. 20.)

18.—And an Effective One.

Historians deplore the fact that the Amphictyonic Council seldom had the ability to execute its sentences, and therefore pronounce it "almost powerless for good" and even mischievous. But Professor Curtius gives expression to a juster estimate of its influence, which even others cannot wholly overlook. "The terms of the Amphictyonic oath," he says, "are first attempts at procuring admission for the principles of humanity in a land filled with border feuds. There is as yet no question of putting an end to the state of war, still less of combining for united action; an attempt is merely made to induce a group of states to regard themselves as belonging together, and on the ground of this feeling to recognise mutual obligations, and in the case of inevitable feuds at all events, mutually to refrain from extreme measures of force."

But the action of the Council as a factor in Greek life, existing as it did from the earliest ages to the second century A.D., was even more influential.

"In case of dispute between the Amphictyones, a judicial authority was wanted to preserve the common peace, or punish its violation in the name of the god. But the insignificant beginning of common annual festivals gradually came to transform the whole of public life; the constant carrying of arms was given up, intercourse was rendered safe, and the sanctity of temples and altars recognised. And the most important result of all was, that the members of the Amphictyony learnt to regard themselves as one united body against those standing outside it; out of a number of tribes arose a nation which required a

common name to distinguish it and its political and religious system from all other tribes. And the federal name fixed upon by common consent was that of Hellenes, which, in the place of the earlier appellation of Graeci, continued to extend its significance with every step by which the federation advanced. The connection of this new national name with the Amphictyon is manifest from the circumstance that the Greeks conceived Hellen and Amphictyon, the mythical representatives of their nationality and fraternal union of race, as nearly related to and connected with one another." (Curtius, History of Greece, Vol. I., 116, 117.)

THE GRAND DESIGN OF HENRY IV. 1603.

(Translated from Sully's Memoirs, new ed., 1822, Vol. VI., pp. 129 et seq.)

I.—The Object.

The object of the New Plan was to divide proportionately the whole of Europe between a certain number of Powers, which would have had nothing to envy one another for on the ground of equality, and nothing to fear on the ground of equilibrium as to the Balance of Power.

II.—The Number of States.

Their number was reduced to fifteen, and they were of three kinds, viz.:—Six great hereditary monarchical Powers; five elective monarchies, and four sovereign republics. The six hereditary monarchies were France, Spain, Great Britain, Denmark, Sweden, and Lombardy. The five elective monarchies, the Empire, the Papacy, Poland, Hungary, and Bohemia. The four republics; the Republic of Venice, the Republic of Italy (which we may also call ducal, because of its dukes), the Swiss, Helvetian or Confederated, Republic, and the Belgian Republic.

III.—The Laws and Statutes.

The laws and statutes calculated to cement the union of all these members, and to maintain amongst them the order once established; the reciprocal oaths and pledges as regards religion and politics; the mutual assurances for the liberty of commerce; the measures for making all these divisions with equity, to the general contentment of the parties; all that can be understood without any enlarging further on Henry's precautions. Only small difficulties of detail could arise, which would be easily met in the General Council representing the States of all Europe, whose establishment was undoubtedly the happiest possible idea for the introduction of reforms, such as time renders needful in the wisest and most useful institutions.

IV.—The General Council.

The model of this General Council of Europe had been taken on that of the ancient Amphictyons of Greece, with the modifica-

GRAND DESSEIN DE HENRI IV. 1603.

(*Mémoires du Duc de Sully, VI.*, 129 *et seq.*: *mot pour mot.*)

I.—L'Objet

L'objet du nouveau plan était de partager avec proportion toute l'Europe, entre un certain nombre de puissances, qui n'eussent eu rien à envier les unes aux autres du côté de l'égalité, ni rien à craindre du côté de l'équilibre.

II.—Le Nombre des Etats

Le nombre en était réduit à quinze, et elles étaient de trois espèces, savoir : six grandes dominations monarchiques héréditaires, cinq monarchiques électives, et quatre républiques souveraines. Les six monarchiques héréditaires étaient la France, l'Espagne, l'Angleterre ou Grande-Bretagne, le Danemark, la Suède et la Lombardie; les cinq monarchiques électives, l'Empire, la Papauté ou le Pontificat, la Pologne, la Hongrie, et la Bohême; les quatre républiques, la république de Venise, (ou seigneuriale), la république d'Italie, qu'on peut de même nommer ducale, à cause de ses ducs, la république suisse, helvétique ou confédérée, et la république belgique (autrement provinciale).

III.—Les Lois et les Statuts

Les lois et les statuts propres à cimenter l'union de tous ces membres entre eux, et à y maintenir l'ordre une fois établi; les sermens et engagemens réciproques, tant sur la religion, que sur la politique; les assurances mutuelles pour la liberté du commerce; les mesures pour faire tous ces partages avec équité, au contentement général des parties; tout cela se sous-entend de soi-même, sans qu'il soit besoin que je m'étende beaucoup sur les précautions qu'avait prises Henri, à tous ces égards. Il ne pouvait survenir au plus que quelques petites difficultés de détail, qui auraient été aisément levées dans le conseil général représentant comme les états de toute l'Europe, dont l'établissement était sans doute l'idée la plus heureuse qu'on pût former, pour prévenir les changemens que le temps apporte souvent aux règlemens les plus sages et les plus utiles.

IV.—Le Conseil Général

Le modèle de ce conseil général de l'Europe, avait été pris sur celui des anciens Amphictyons de la Grèce, avec les modifications

tions suitable to our usages, climate, and the end of our policy. It consisted of a certain number of commissioners, ministers, or plenipotentiaries from all the Powers of the Christian Republic, continually assembled as a Senate to deliberate on the affairs that arose, to occupy themselves with discussing different interests, to pacify quarrels, to throw light upon and oversee the civil, political, and religious affairs of Europe, whether internal or foreign. The form and procedure of this Senate would have been more particularly determined by the votes of the Senate itself. The advice of Henry was that it should be composed, *e.g.*, of four commissioners for each of the following Powers: The Emperor, the Pope, the Kings of France, Spain, England, Denmark, Sweden, Lombardy, Poland, the Venetian Republic, and of two only for the other republics and lesser Powers, which would have made a Senate of about seventy persons, whose election might have been renewed every three years.

V.—The Place of Meeting.

As to the place, it would have to be decided whether it was more suitable for the Council to be permanent or movable, divided into three parts or united. If it were divided into parts, of twenty-two magistrates each, their residence might be in three places, which would be like so many convenient centres, such as Paris or Bourges for one, Trent or Cracow, or their environs, for the two others. If it were judged more expedient not to divide them, the place of meeting, whether fixed or movable, should be pretty near the centre of Europe, and consequently be fixed in one of the fourteen following towns: Metz, Luxembourg, Nancy, Cologne, Mayence, Trèves, Frankfort, Wirtzbourg, Heidelberg, Spire, Worms, Strasbourg, Bâle, Besançon.

VI.—Minor Councils.

I think that besides this General Council it would still have been suitable to form a certain number of smaller ones, for the special convenience of different cantons. By making six, one would have had them placed, *e.g.*, at Dantzic, Nuremburg,

convenables à nos usages, à notre climat, et au but de notre politique. Il consistait en un certain nombre de commissaires, ministres ou plénipotentiaires, de toutes les dominations de la république chrétienne, continuellement assemblés en corps de sénat pour délibérer sur les affaires survenantes, s'occuper à discuter les différens intérêts, pacifier les querelles, éclaircir et vider toutes les affaires civiles, politiques et religieuses de l'Europe, soit avec elle-même, soit avec l'étranger. La forme et les procédures de ce sénat, auraient été plus particulièrement déterminées par les suffrages de ce sénat lui-même. L'avis de Henri était qu'il fût composé, par exemple, de quatre commissaires, pour chacun des potentats suivans, l'empereur, le pape, les rois de France, d'Espagne, d'Angleterre, de Danemark, de Suède, de Lombardie, de Pologne, la république vénitienne ; et de deux seulement, pour les autres républiques et moindres puissances, ce qui aurait fait un sénat d'environ soixante-dix personnes, dont le choix aurait pu se renouveler de trois ans en trois ans.

V.—Le Lieu

A l'égard du lieu, on déciderait s'il était plus à propos que ce conseil fût permanent, qu'ambulatoire, divisé en trois, que réuni, Si on le partageait par portions de vingt-deux magistrats chacune. leur séjour devait être dans trois endroits qui fussent comme autant de centres commodes, tels que Paris ou Bourges, pour l'une ; Trente ou Cracovie, ou leurs environs, pour les deux autres. Si on jugeait plus expédient de ne point le diviser, le lieu d'assemblée, soit qu'il fût fixe ou ambulatoire, devait être à peu près le cœur de l'Europe, et être par conséquent fixé dans quelqu'une des quatorze villes suivantes : Metz, Luxembourg, Nancy, Cologne, Mayence, Trèves, Francfort, Wirtzbourg, Heidelberg, Spire, Worms, Strasbourg, Bâle, Besançon.

VI.—Des Conseils moindres

Je crois qu'outre ce conseil général, il eût encore convenu d'en former un certain nombre de moindres, pour la commodité particulière de différens cantons. En en créant six, on les aurait placés, par exemple, à Dantzick, à Nuremberg, à Vienne en

Vienna, in Germany; at Bologna, in Italy; at Constance; and the last in the place most convenient for the kingdoms of France, Spain, and England, and the Belgian Republic, which it more particularly concerned.

VII.—Appeal to the General Council.

But, whatever were the number and the form of these special Councils, it was of the utmost utility that they should go by appeal to the Great General Council, whose decisions should be like irrevocable and unchangeable decrees, as being considered to emanate from the united authority of all the Sovereigns, pronouncing as freely as absolutely.

VIII.—Political Objects.

The political part of the Plan . . . . was to despoil the House of Austria of all its possessions in Germany, Italy, and the Netherlands—in a word, to confine it to the kingdom of Spain, bounded by the Atlantic, the Mediterranean and the Pyrenees, leaving to it, for equality with the other Powers, Sardinia, Majorca, Minorca (and other islands on these coasts), Canary Isles, the Azores, Cape Verde Island, with its possessions in Africa, Mexico, with the American islands which belong to it; countries which would of themselves suffice to found great kingdoms; finally, the Philippines, Goa, the Moluccas, and its other Asiatic possessions.

IX.—Conquered Countries.

One precaution to take in relation to all conquered countries would be to form out of them new kingdoms, which would be declared joined to the Christian Republic, and which would be apportioned to different Princes, carefully excluding those who already held rank among the Sovereigns of Europe.

X.—Expenses.

It only remains that the Powers should tax themselves for the maintenance of armed forces, and for all the other things necessary to make the plan succeed, until the General Council should specify all these amounts.

Allemagne, à Bologne en Italie, à Constance, et le dernier dans l'endroit jugé le plus commode pour les royaumes de France, d'Espagne et d'Angleterre, et la république belgique, qu'il regardait plus particulièrement.

VII.—Appel au Conseil Général

Mais quels que fussent le nombre et la forme de ces conseils particuliers, il était de toute utilité qu'ils ressortissent par appel au grand conseil général, dont les arrêts auraient été autant de décrets irrévocables et irréformables, comme étant censés émaner de l'autorité réunie de tous les souverains, prononçant aussi librement qu'absolument.

VIII.—La Partie du Dessein Politique

La partie du dessein purement politique . . . . c'était de dépouiller la maison d'Autriche de l'empire de tout ce qu'elle possède en Allemagne, en Italie, et dans les Pays-Bas ; en un mot, de la réduire au seul royaume d'Espagne renfermé entre l'Océan, la Méditerranée et les Pyrénées, auquel on aurait laissé seulement, pour le rendre égal aux autres grandes dominations monarchiques de l'Europe, la Sardaigne, Majorque, Minorque et autres îles sur ces côtes ; les Canaries, les Açores et le Cap-Vert, avec ce qu'il possède en Afrique ; le Mexique, avec les îles de l'Amérique qui lui appartiennent ; pays qui suffiraient seuls à fonder de grands royaumes ; enfin, les Philippines, Coa, les Moluques, et ses autres possessions en Asie.

IX.—Les Pays conquis

Une précaution unique à prendre, par rapport à tous les pays conquis, eût été d'y fonder de nouveaux royaumes, qu'on déclarerait unis à la république chrétienne, et qu'on distribuerait à différens princes, en excluant soigneusement ceux qui tiendraient déjà rang parmi les souverains de l'Europe.

X.—Des Frais

Il n'est question que d'engager chacun d'eux à se taxer lui-même pour l'entretien des gens de guerre, et pour toutes les autres choses nécessaires à la faire réussir, en attendant que le conseil général eût spécifié toutes ces valeurs.

WILLIAM PENN'S EUROPEAN DIET, PARLIAMENT, OR ESTATES, 1693—94.

This is not a reproduction of Henry IV.'s grand design. Penn may have owed to it the formal suggestion of his plan, but that is all.

That plan was the creation of a permanent Sovereign tribunal—an International Parliament or Congress, which should exercise judicial functions as well as deliberative, and also act as a Committee of Safety.

The judicial function was the chief feature of this proposed permanent Diet. Penn's proposals were :—

1. That the Sovereign Princes of Europe should, for the love of Peace and Order, agree to meet, by their appointed Deputies, in a General Diet, Estates, or Parliament, and there establish Rules of Justice for their mutual observance.

2. That this body should meet yearly, or once in two or three years at furthest, or as they should see cause.

3. That it should be styled the Sovereign, or Imperial, Diet, Parliament, or States of Europe.

4. That before this Sovereign Assembly should be brought all differences depending between one Sovereign and another that cannot be adjusted by diplomatic means, before its sessions begin.

5. That if any of the Sovereignties constituting this Imperial Diet should refuse to submit their claims or pretensions to the

Diet, or to accept its judgment, and seek their remedy by arms, or delay compliance beyond the time specified, all the other Sovereignties, uniting their forces, should compel submission to, and performance of, the sentence and payment of all costs and damages.

6. The composition of this Imperial Diet should be by proportionate representation.

7. The determination of the number of persons or votes for every Sovereignty would not be impracticable if it depended on an estimate of the yearly value of their respective countries.

8. This estimate was to be reached "by considering the revenues of lands, the exports and entries at the Custom Houses, the books of rates, and surveys, that are in all Governments, to proportion taxes for their support."

9. It is not absolutely necessary that there should be as many Delegates as votes; for the votes may be given by one Delegate as well as by ten or twelve.

10. Though the fuller, that is, the *larger*, the assembly is, the more solemn, effectual, and free, the debates will be, and its resolutions will carry greater authority.

11. The place of the first session should be central, as much as is possible; afterwards as the Assembly itself shall determine.

12. To avoid quarrel for precedency the room may be round, and have several doors to come in and go out at.

13. The Assembly may be divided into sections, containing each ten members, each section to elect one of its number to preside over the Assembly in turn.

14. All speeches should be addressed to the President, who should collect the sense of the debates and state the question before the vote is taken.

15. The voting should be by ballot, after the prudent and commendable method of the Venetians.

16. Nothing should pass except by a three-quarters vote, or at least by a majority of seven.

17. All complaints should be delivered in writing—in the form of *Memorials* and *Journals*, kept by a proper person, in a *trunk* or *chest*, which should have as many different locks as there are sections in the Assembly ("tens in the States").

18. There should be a secretary for each section ("a clerk for each ten"), and a desk or table for these secretaries in the Assembly.

19. At the end of every session, one [member] out of each section ("ten") appointed for the purpose should examine and compare the records of those secretaries ("journals of those clerks"), and then lock them up in the common *trunk* or *chest*.

20. Each Sovereignty, if they please, as is but very fit, may have an *exemplification*, or *copy*, of the said *Memorials*, and the *Journals of Proceedings* upon them.

21. Rules and regulations of debate will not fail to be adopted by the Assembly, which will be composed of the wisest and noblest of each Sovereignty, for its own honour and safety.

22. If any difference arise among the Delegates from the same Sovereignty, one of the members forming the majority should take their votes on the question.

23. It is extremely necessary that every Sovereignty should be represented at the Diet under great penalties, and that none leave the session without permission till all the business be finished; and also that no neutrality in debate should be allowed; "for any such latitude will quickly open a way to unfair proceedings, and be followed by a train both of seen and unseen inconveniences."

24. The language spoken in the session of the Sovereign Estates must be either *Latin* or *French*.' "The first would be very well for civilians, but the latter more easy for men of quality."

HENRY IV.'S SCHEME,

ELABORATED BY THE ABBÉ SAINT-PIERRE.

I.—Fundamental Articles.

The present Sovereigns, by their undersigned Deputies, have agreed to the following Articles :—

1. There shall be from this day forward a Society, a permanent and perpetual Union between the undersigned Sovereigns, and, if possible, among all Christian Sovereigns, to preserve unbroken peace in Europe. The Sovereigns shall be perpetually represented by their Deputies in a perpetual Congress or Senate in a free city.

2. The European Society shall not at all interfere with the Government of any State, except to preserve its constitution, and to render prompt and adequate assistance to rulers and chief magistrates against seditious persons and rebels.

3. The Union shall employ its whole strength and care in order, during regencies, minorities, or feeble reigns, to prevent injury to the Sovereign, either in his person or prerogatives, or to the Sovereign House, and in case of such shall send Commissioners to inquire into the facts, and troops to punish the guilty.

4. Each Sovereign shall be contented, he and his successors, with the Territory he actually possesses, or which he is to possess by the accompanying Treaty. No Sovereign, nor member of a Sovereign Family, can be Sovereign of any State besides that or those which are actually in the possession of his family. The

EXTRAIT DU PROJET DE PAIX PERPÉTUELLE DE M. L'ABBÉ DE SAINT PIERRE. (*Mot pour mot.*)

I.—Articles Fondamentaux.

Les souverains presens par leurs Députez soussignez sont convenus des articles suivans :

1. Il y aura de ce jour à l'avenir une Société, une Union permanente et perpetuelle entre les Souverains soussignez, et s'il est possible, entre tous les Souverains Chrétiens, dans le dessein de rendre la Paix inaltérable en Europe.

Les Souverains seront perpetuellement representez par leurs Deputez dans un Congrez ou Senat perpetuel dans une Ville libre.

2. La Société Européenne ne se mêlera point du Gouvernement de chaque Etat, si ce n'est pour en conserver la forme fondamentale, et pour donner un prompt et suffisant secours aux Princes dans les Monarchies, et aux Magistrats dans les Republiques, contre les Séditieux et les Rebelles.

3. L'Union employera toutes ses forces et tous ses soins pour empêcher que pendant les Regences, les Minoritez, les Regnes foibles de chaque Etat, il ne soit fait aucun préjudice au Souverain, ni en sa personne, ni en ses droits, soit par ses Sujets, soit par des Estrangers ; et s'il arrivoit quelque Sédition, Révolte, Conspiration, soupçon de poison, ou autre violence contre le Prince ou contre la Maison Souveraine, l'Union, comme sa Tutrice et comme sa Protectrice née, envoyera dans cet Etat des Commissaires exprès pour estre par eux informez de la verité des faits, et en même temps des Troupes pour punir les coupables.

4. Chaque Souverain se contentera pour luy et pour ses Successeurs du Territoire qu'il possede actuellement, ou qu'il doit posseder par le Traité cy-joint.

Aucun Souverain, ni aucun Membre de Maison Souveraine ne pourra estre Souverain d'aucun Etat, que de celuy, ou de ceux qui sont actuellement dans sa maison.

sums which the Sovereigns owe to the private persons of another State shall be paid as heretofore. No Sovereign shall assume the title of Lord of any Country of which he is not in possession, and the Sovereigns shall not make an exchange of Territory or sign any Treaty among themselves except by a majority of the four-and-twenty votes of the Union, which shall remain guarantee for the execution of reciprocal promises.

5. No Sovereign shall henceforth possess two Sovereignties, either hereditary or elective, except that the Electors of the Empire may be elected Emperors, so long as there shall be Emperors. If by right of succession there should fall to a Sovereign a State more considerable than that which he possesses, he may leave that which he possesses, and settle himself on that which is fallen to him.

6. The Kingdom of Spain shall not go out of the House of Bourbon, &c.

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7. The Deputies shall incessantly labour to codify all the Articles of Commerce in general, and between different nations in particular; but in such a manner that the laws may be equal and reciprocal towards all nations, and founded upon Equity. The Articles which shall have been passed by a majority of the votes of the original Deputies, shall be executed provisionally according to their Form and Tenour, till they be amended and improved by three-fourths of the votes, when a greater number of members shall have signed the Union.

The Union shall establish in different towns Chambers of Commerce, consisting of Deputies authorised to reconcile, and to judge strictly and without Appeal, the disputes that shall arise either in relation to Commerce or other matters, between the subjects of different Sovereigns, in value above ten thousand pounds; the other suits, of less consequence, shall be decided, as usual, by the judges of the place where the defendant lives. Each Sovereign shall lend his hand to the execution of the

Les rentes que doivent les Souverains aux particuliers d'un autre Etat, seront payées, comme par le passé.

Aucun Souverain ne prendra le titre de Seigneur d'aucun Péïs, dont il ne sera point en actuelle possession, ou dont la possession ne luy sera point promise par le Traité cy-joint.

Les Souverains ne pourront entr'eux faire d'échange d'aucun Territoire, ny signer aucun autre Traité entr'eux que du consentement, et sous la garantie de l'Union aux trois quarts des vingt-quatre voix, et l'Union demeurera garante de l'execution des promesses reciproques.

5. Nul Souverain ne pourra desormais posseder deux Souverainetez, soit héréditaires, soit électives; cependant les Electeurs de l'Empire pourront être élûs Empereurs, tant qu'il y aura des Empereurs.

Si par droit de succession il arrivoit à un Souverain un Etat plus considerable que celuy qu'il possede, il pourra laisser celuy qu'il possede, pour s'établir dans celuy qui luy est échû.

6. Le Royaume d'Espagne ne sortira point de la maison de Bourbon, etc.

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7. Les Députez travailleront continuellement à rediger tous les Articles du Commerce en general, et des differens Commerces entre les Nations particulieres, de sorte cependant que les Loix soient égales et reciproques pour toutes les Nations, et fondées sur l'équité.

Les Articles qui auront passé à la pluralité des voix des Députez presens, seront executez par provision selon leur forme et teneur, jusqu'à ce qu'ils soient reformez aux trois quarts des voix, lors qu'un plus grand nombre de Membres auront signé l'Union.

L'Union établira en differentes Villes des Chambres pour le maintien du Commerce, composées de Députez autorisez à concilier, et à juger à la rigueur, et en dernier ressort les procez qui naîtront pour violence, ou sur le Commerce, ou autres matieres entre les Sujets de divers Souverains, au-dessus de dix mille livres; les autres procez de moindre consequence seront decidez à l'ordinaire par les Juges du lieu où demeure le Défendeur: chaque

judgments of the Chambers of Commerce, as if they were his own judgments.

Each Sovereign shall, at his own charge, exterminate his inland robbers and banditti, and the pirates on his coasts, upon pain of making reparation; and if he has need of help, the Union shall assist him.

8. No Sovereign shall take up arms, or commit any hostility, but against him who shall be declared an enemy to the European Society. But if he has any cause to complain of any of the Members, or any demand to make upon them, he shall order his Deputy to present a memorial to the Senate in the City of Peace, and the Senate shall take care to reconcile the difference by its mediating Commissioners; or, if they cannot be reconciled, the Senate shall judge them by arbitral judgment, by majority of votes provisionally, and by three-fourths of the votes definitely. This judgment shall not be given until each Senator shall have received the instructions and orders of his master upon that point, and until he shall have communicated them to the Senate.

The Sovereign who shall take up arms before the Union has declared war, or who shall refuse to execute a regulation of the Society, or a judgment of the Senate, shall be declared an enemy to the Society, and it shall make war upon him, until he be disarmed, and until its judgment and regulations be executed, and he shall even pay the charges of the war, and the country that shall be conquered from him at the close of hostilities shall be for ever separated from his dominions.

If, after the Society is formed to the number of fourteen votes, a Sovereign should refuse to enter into it, it shall declare him an enemy to the repose of Europe, and shall make war upon him until he enter into it, or until he be entirely despoiled.

9. There shall be in the Senate of *Europe* four-and-twenty Senators or Deputies of the United Sovereigns, neither more nor less, namely:—*France*, *Spain*, *England*, *Holland*, *Savoy*, *Portugal*,

Souverain prêtera la main à l'execution des Jugemens des Chambres du Commerce, comme si c'étoient ses propres Jugemens.

Chaque Souverain exterminera à ses frais les Voleurs et les Bandits sur ses Terres, et les Pirates sur ses Côtes, sous peine de dédommagement, et s'il a besoin de secours, l'Union y contribuera.

8. Nul Souverain ne prendra les armes et ne fera aucune hostilité que contre celuy qui aura esté declaré ennemi de la Societé Européenne : mais s'il y a quelque sujet de se plaindre de quelqu'un de ses Membres, ou quelque demande à luy faire, il fera donner par son Député son memoire au Senat dans la Ville de Paix, et le Senat prendra soin de concilier les differens par ses Commissaires Mediateurs, ou s'ils ne peuvent estre conciliez, le Senat les jugera par Jugement Arbitral à la pluralité des voix pour la provision et aux trois quarts pour la definitive. Ce jugement ne se donnera qu'après que chaque Senateur aura reçû sur ce fait les instructions et les ordres de son Maistre, et qu'il les aura communiquez au Senat.

Le Souverain qui prendra les armes avant la declaration de Guerre de l'Union, ou qui refusera d'executer un Reglement de la Societé, ou un Jugement du Senat, sera declaré ennemi de la Societé, et elle luy fera la guerre, jusqu'à ce qu'il soit desarmé, et jusqu'à l'execution du Jugement et des Reglemens ; il payera même les frais de la Guerre, et le péïs qui sera conquis sur luy lors de la suspension d'armes, demeurera pour toûjours séparé de son Etat.

Si après la Societé formée au nombre de quatorze voix, un Souverain refusoit d'y entrer, elle le declarera ennemi du repos de l'Europe, et lui fera la Guerre jusqu'à ce qu'il y soit entré, ou jusqu'à ce qu'il soit entièrement dépossedé.

9. Il y aura dans le Senat d'Europe vingt quatre Senateurs ou Députez des Souverains unis, ni plus, ni moins ; scavoir, France, Espagne, Angleterre, Hollande, Savoye, Portugal, Baviere et Associez, Suisse et Associez, Lorraine et Associez, Suede, Dane-

Bavaria and Associates, *Venice*, *Genoa* and Associates, *Florence* and Associates, *Switzerland* and Associates, *Lorrain* and Associates, *Sweden*, *Denmark*, *Poland*, the Pope, *Moscovy*, *Austria*, *Courland* and Associates, *Prussia*, *Saxony*, *Palatine* and Associates, *Hanover* and Associates, Ecclesiastical Electors and Associates. Each Deputy shall have but one vote.

10. The Members and Associates of the Union shall contribute to the expenses of the Society, and to the subsidies for its security, each in proportion to his revenues, and to the riches of his people, and everyone's quota shall at first be regulated provisionally by a majority, and afterwards by three-fourths of the votes, when the Commissioners of the Union shall have taken, in each State, what instructions and information shall be necessary thereupon; and if anyone is found to have paid too much provisionally, it shall afterwards be made up to him, both in principal and interest, by those who shall have paid too little. The less powerful Sovereigns and Associates in forming one vote, shall alternately nominate their Deputy in proportion to their quotas.

11. When the Senate shall deliberate upon anything pressing and imperative for the security of the Society, either to prevent or quell sedition, the question may be decided by a majority of votes provisionally, and, before it is deliberated upon, they shall begin by deciding, by majority, whether the matter is imperative.

12. None of the eleven fundamental Articles above-named shall be in any point altered, without the *unanimous* consent of all the members; but as for the other Articles, the Society may always, by three-fourths of the votes, add or diminish, for the common good, whatever it shall think fit.

II.—Important Articles.

1. The Senate shall be composed of one of the Deputies of each of the Voting Sovereigns who shall have signed the Treaty of the twelve Articles mentioned, and afterwards their number shall be augmented by one Deputy from each of the other

mark, Pologne, Pape, Moscovie, Autriche, Curlande et Associez, Hanovre et Associez, Archevêques Electeurs et Associez.

Chacun Deputé n'aura qu'une voix.

10. Les Membres et les Associez de l'Union contribueront aux frais de la Societé, et aux subsides pour la sûreté a proportion chacun de leur revenus et des richesses de leurs Peuples, et les contingens de chacun sera reglez d'abord par provision à la pluralité, et ensuite aux trois quarts des voix, après que les Commissaires de l'Union auront pris sur cela dans chaque Etat les instructions et les éclaircissemens necessaires, et si quelqu'un se trouvoit avoir trop payé par provision, il luy en sera fait raison dans la suite en principal et interest par ceux qui auroient trop peu payé. Les Souverains moins puissans et Associez pour former une voix, alterneront pour la nomination de leur Deputé à proportion de leurs contingens.

11. Quand le Senat deliberera sur quelque chose de pressant et de provisoire pour la sureté de la Societé, ou pour prévenir, ou appraiser quelque Sédition, la question pourra se décider à la pluralité des voix pour la provision, et avant que de déliberer on commencera par decider à la pluralité, si la matiere est provisoire.

12. On ne changera jamais rien aux onze Articles fondamentaux cy-dessus exprimez, sans le consentement *unanime* de tous les Membres; mais à l'égard des autres Articles, la Societé pourra toûjours aux trois quarts des voix y ajoûter, ou y retrancher pour l'utilité commune ce qu'elle jugera à propos.

2.—Articles Importans.

1. Le Senat demeurera composé d'un des Députez de chacun des Souverains votans qui auront signé le Traité des douze Articles cy-dessus, et dans la suite leur nombre sera augmenté d'un Deputé de chacun des autres Souverains; à mesure qu'ils

Sovereigns, in order, as they shall sign it, and the assembly of the Senate shall provisionally be held at Utrecht.

2. The Senate, in order to keep up a continual correspondence with the members of the Society, and to free them from all cause of fear and distrust one of another, shall always maintain, not only an Ambassador with each of them, but also a Resident in each great province of two millions of subjects.

The Residents shall dwell in the capital cities of those provinces, that they may be perpetual and irreproachable witnesses to the other Sovereigns, that the Prince in whose dominions they reside, has no thought of disturbing the peace and tranquillity.

These Ambassadors and Residents shall all be chosen from among the natural inhabitants of the territory of the City of Peace, or naturalised in that territory.

Each Sovereign shall, as much as lies in his power, facilitate all inquiry concerning things that may be included in the instructions of the Residents, and shall order his Ministers, and his other officers, to give them all the information they shall desire for the public security and tranquillity, to the intent they may every month give an account of things to the Senate, and to the Ambassador of the Senate. The Residents shall be of the number of those Commissioners whom the Senate shall send to verify the account of the revenues and charges of the Sovereign and of his State, in order to give the definitive regulation of his *Quota.*

3. When the Union shall employ troops against an enemy, there shall be no greater number of soldiers of one nation than of another; but to make the levying and maintaining a great number of troops easy to the less powerful, the Union shall furnish them with what money is necessary, and that money shall be furnished to the Treasurer of the Union by the most powerful Sovereigns, who shall pay, in money, the *surplus* of their extraordinary *quota.*

le signeront, et l'Assemblée du Senat se tiendra par provision à Utrecht.

2. Le Senat pour entretenir une correspondance perpetuelle avec tous les Membres de la Societé, et pour les delivrer de tout sujet de crainte et de défiance les uns des autres, entretiendra toujours non seulement un Ambassadeur chez chacun d'eux, mais encore un Resident par chaque grande Province de deux millions de sujets.

Les Residens demeureront dans les Villes Capitales de ces Provinces, pour estre témoins perpetuels et irréprochables à l'égard des autres souverains, que le Prince dans l'Etat duquel ils résident, ne pense qu'à conserver la Paix et la tranquilité.

Ces Ambassadeurs et ces Residens seront pris d'entre les Habitans naturels du Territoire de la Ville de Paix, ou naturalisez dans ce même Territoire.

Chaque Souverain facilitera, autant qu'il sera en son pouvoir, toutes les informations des choses qui seront dans les instructions des Residens, et il ordonnera ses Ministres, et à ses autres Officiers de leur donner sur toutes leurs demandes tous les éclaircissemens qu'ils desireront pour la sûreté et la tranquilité publique, afin qu'ils puissent en rendre compte tous les mois au Senat, et à l'Ambassadeur du Senat.

Les Residens seront du nombre des Commissaires que le Senat enverra pour verifier le Memoire des revenus et des charges du Souverain et de son Etat, afin de regler son Contingent pour la définitive.

3. Quand l'Union employera des Troupes contre son ennemi, il n'y aura point un plus grand nombre de Soldats d'une Nation que d'une autre : mais pour faciliter aux Souverains moins puissans la levée et l'entretien d'un grand nombre de Troupes, l'Union leur fournira les deniers necessaires, et ces deniers seront fournis au Tresorier de l'Union par les Souverains plus puissans qui fourniront en argent le surplus de leur contingent extra ordinaire.

If any Member of the Union should omit to pay duly his extraordinary *quota* in troops or money, the Union shall borrow, make advances, and cause itself to be reimbursed with the interest of the loan by the Sovereign that shall be in default.

In time of Peace, after all the Sovereigns have signed, the most powerful shall keep up no more troops of his own nation than the less powerful, which shall be limited for the latter, who has a full vote, to a thousand men. But a very powerful Sovereign may, with the consent of the Union, borrow and maintain at his own charge in his dominions, other troops for his garrisons, so as to prevent seditions, provided they are all foreign soldiers and officers, and neither those officers nor those soldiers shall, upon pain of being disbanded, invest in any government security, purchase any estate, or marry anywhere but in the country of their nativity.

4. After the united Princes shall have declared war against any Sovereign, if one of his provinces revolt in favour of the Union, that province shall remain divided from its kingdom, and be governed like a Republic, or given as a Sovereignty to one of the Princes of the Blood, whom that province shall have chosen for its head, or to the General of the Union.

Any minister, general, or other officer of the enemy, who shall retire either to a Sovereign who is a Member of the Union, or into the territory of the Union, shall be there protected by the Senate, which, during the war, shall give him a revenue equal to that which he possessed in his own country; and the Union shall not make Peace until it be repaid what it has given him, and until the enemy, when reconciled, has given the Union the value of what the refugee possesses in his own country, that he may choose his habitation elsewhere.

Two hundred of the principal ministers or officers of the enemy, who shall have omitted to retire into foreign countries at the beginning of such war, shall be delivered to the Union, and punished with death or imprisonment for life, as disturbers of the Peace of the common country.

Si quelque Membre de l'Union ne fournissoit pas à temps son contingent extraordinaire en Troupes ou en argent, l'Union empruntera, fera les avances, et se fera rembourser avec les interests de l'emprunt ou du prest par le Souverain qui seroit en défaut.

En temps de Paix, après que tous les Souverains auront signé, le plus puissant n'entretiendra pas plus de Troupes de sa Nation que le moins puissant, ce qui sera reglé pour le moins puissant qui a suffrage entier à six mille hommes: mais un Souverain fort puissant pourra du consentement de l'Union emprunter et entretenir à ses frais dans son Etat d'autres Troupes pour ses Garnisons, et pour prevenir les Séditions, pourvû que ce soient tous Soldats et Officiers étrangers, et ni ces Officiers ni ces Soldats ne pourront, sur peine d'estre cassez, acquerir aucune rente, aucun fond, se marier ailleurs que dans le Péïs de leur naissance.

4. Apres que les Princes unis auront declaré la Guerre à un Souverain, si une de ses Provinces se revolte en faveur de l'Union, cette Province demeurera démembrée, et elle sera gouvernée en forme de Republique, ou donnée en Souveraineté à celuy des Princes du Sang que cette Province aura choisi pour son Chef ou au General de l'Union.

Le Ministre, le General ou autre Officier de l'Ennemi qui se retirera ou chez un Souverain Membre de l'Union, ou dans le Territoire de l'Union, y sera protegé par le Senat qui luy fournira pendant la Guerre un revenu pareil à celuy qu'il possedoit dans son Péïs, et la Paix ne se fera point que l'Union ne soit remboursée de ce qu'elle luy aura fourni, et jusqu'à ce que l'Ennemi reconcilié ait fourni à l'Union la valeur des biens que le Refugié a dans son Péïs, afin qu'il puisse choisir ailleurs son habitation.

Deux cens des principaux Ministres ou Officiers de l'ennemi qui ne se seront pas retirez en Péïs étranger au commencement de la Guerre, seront livrez à l'Union, et punis de mort ou de prison perpetuelle, comme Perturbateurs de la Paix de la commune Patrie.

5. The Union shall give useful and honourable rewards to him who shall discover anything of a conspiracy against its interests, and that reward shall be ten times greater than any the discoverer could have expected had he remained in the conspiracy.

6. In order to increase the security of the Union, the Sovereigns, the Princes of the Blood, and fifty of the principal officers and ministers of their State, shall every year, on the same day, renew in their capital city, in the presence of the Ambassador and Residents of the Union, and of all the people, their Oaths, in the form agreed on, and shall swear to contribute as much as they are able, to maintain the General Union, and punctually to cause its regulations to be executed, in order to keep the Peace undisturbed.

7. As there are several lands in America and elsewhere which are inhabited only by savages, and as the Sovereigns of Europe, who have settlements there, ought to have certain, visible, and immutable bounds to their territory, for avoiding occasions of war, the Union shall appoint Commissioners, who shall, on the spot, get information about those limits, and on their report it shall give decision by three-fourths of the votes.

8. When in any one of the States of the Union there shall remain no person capable to succeed the reigning Sovereign, the Union, to prevent disturbances in that State, shall regulate, and that, too, if it can, in concert with the then Sovereign, the person who shall succeed him; but this shall be always in the event of his leaving no children; and as he may die suddenly, the Union shall, immediately upon his death, either nominate the successor, or turn the Government into a Republic, in case the Sovereign is against having a successor.

III.—Useful Articles.

1. Security and Privileges of the City of Peace.

The City of Peace shall be fortified with a new inclosure, and citadels shall be placed round that new inclosure. There

5. L'Union donnera des recompenses utiles et honnorables à celuy qui découvrira quelque chose d'une conspiration contre ses interests, et cette recompense sera dix fois plus forte que celle que le Dénonciateur auroit pû esperer en demeurant dans la conspiration.

6. Pour augmenter la sûreté de l'Union, les Souverains, les Princes du Sang et cinquante des principaux Officiers et Ministres de leur Etat renouvelleront tous les ans au même jour dans leur Capitale en presence de l'Ambassadeur et des Residens de l'Union et de tout le Peuple, leurs sermens, selon les Formules dont on conviendra, et jureront de contribuer de tout leur pouvoir à maintenir l'Union generale, et à faire executer ponctuellement ses Reglemens, pour rendre la Paix inalterable.

7. Comme il y a beaucoup de Terres en Amérique et ailleurs qui ne sont habitées que de Sauvages, et qu'il est à propos que les Souverains de l'Europe qui y ont des Etablissemens ayent dans ce Péïs-là des bornes certaines, évidentes et immuables de leur Territoire, pour éviter les sujets de la Guerre, l'Union nommera des Commissaires qui travailleront sur les lieux à l'éclaircissement de ces limites, et sur leur rapport, elle en fera la décision aux trois quarts des voix.

8. Lorsque dans un Etat Membre de l'Union, il ne restera plus personne habile à succeder au Souverain Regnant, l'Union pour prévenir les troubles de cet Etat, reglera, et s'il se peut, de concert avec le Souverain quel doit estre son Successeur, mais toûjours sous la condition qu'il ne laisse point d'enfans ; et comme il peut mourir de mort subite, l'Union ne perdra point de temps ou à designer le Successeur, ou à regler le Gouvernement en République, en cas que le Souverain ne veüille point de Successeur.

III.—Articles Utiles.

1. Sûreté & Privileges de la Ville de Paix.

La Ville de Paix sera fortifiée d'une nouvelle Enceinte, et on placera des Citadelles au tour de cette nouvelle Enceinte ; il y

shall be in it magazines of provisions, of ammunitions, and of all things necessary for sustaining a long siege or blockade. The Ambassadors of the Union, the Residents, the five Deputies of each Frontier Chamber, and especially the Officers of the garrisons of the city, shall be all as near as possible natives or inhabitants, and married in the city and territory of the Union; the soldiers of the garrison shall be raised in the same territory, if possible, and the rest shall not be raised anywhere but among the subjects of the Commonwealths of Europe.

The Union by the lessening of the quota will indemnify the States-General of the United Provinces for what they usually draw as subsidies from the Lordship of Utrecht. So, instead of a larger sum, they will pay only 900,000 livres as their quota; and, in order to compensate private individuals of the same Lordship for the loss they might suffer through their Sovereignty being incorporated in the Union, the inhabitants will be not only secured in their Laws, Property, Religion, and Employments, but the Union will furnish them with more profitable and honourable posts, as Ambassadors, Residents, Judges of the Chambers, Consuls, Treasurers, etc., and as to the ordinary taxes due from subjects, they will be relieved of one-half.

2. GENERALISSIMO OF THE UNION.

If the Union enter upon a war against any Sovereign it shall name a *Generalissimo* by a majority of votes; he shall not be of a Sovereign family, he shall be revocable at pleasure, he shall have command over the Generals of the troops of the united Sovereigns, he shall dispose of no employments among those troops; but if any of those Generals, or other General officers, should disobey or fail in their duty, he may have them brought before a Council of War.

The Union, in case there be no prince of the Sovereign family, which it shall have conquered, may resolve to give all or part of what it may conquer from the enemy to be erected into a principality for the General.

aura des Magasins de vivres et de munitions, et tout ce qui peut être necessaire pour soûtenir un long siége et un long blocus.

Les Ambassadeurs de l'Union, les Résidens, les cinq députez de chaque Chambre Frontiere, et surtout les Officiers des Garnisons de la Ville seront autant qu'il sera possible Natifs ou Habitans et mariés dans la Ville et Territoire de l'Union, les soldats de la garnison seront pris du même Territoire s'il est possible ; et le reste ne pourra être pris que parmi les Sujets des Républiques de l'Europe.

L'Union par la diminution du contingent dedomagera les Etats Generaux des Provinces unies de ce qu'ils tirent ordinairement de subsides de la Seigneurie d'Utrecht ; ainsi au lieu d'une plus grande somme, ils ne payeront que neuf cens mille livres de contingent, et pour dédommager les Particuliers de la même Seigneurie du préjudice qu'ils pourroient souffrir de ce que leur Souveraineté sera incorporée à l'Union, les Habitans seront non seulement conservés dans leurs Loix, dans leurs biens, dans leur Religion, et dans leurs emplois, mais l'Union leur fournira encore des postes plus profitables et plus honorables, comme Ambassadeurs, Résidens, Juges des Chambres, Consuls, Tresoriers et autres, et à l'égard des subsides ordinaires des Sujets, ils seront diminués de moitié.

2. Generalissime de l'Union.

Si l'Union entre en Guerre contre quelque Souverain, elle nommera un Generalissime à la pluralité des voix, il ne sera point de Maison Souveraine, il pourra être révoqué toutes fois et quantes, il commandera aux Generaux des Troupes des Souverains unis, il ne disposera d'aucuns emplois parmi ces Troupes ; mais si quelqu'un de ces Generaux ou autres Officiers Generaux déobéïssoit ou manquoit à son devoir, il pourra le mettre au Conseil de Guerre.

L'Union en cás qu'il n'y eût point de Prince de la Maison Souveraine vaincûë, pourra se déterminer à donner en Principauté au Generalissime, tout ou partie de ce qu'il pourra conquerir sur le Souverain ennemi.

3. Deputies, Vice-Deputies and Agents.

Every Prince, every State, shall keep in the City of Peace for the whole year round one Deputy, of at least forty years old, and two Vice-Deputies of the same age, to fill up his place in case of absence or sickness; and two Agents to fill up the place of the Vice-Deputies.

The Vice-Deputies shall in their credentials be distinguished as first and second, in order that the first, in case of illness and absence, may succeed by full right to the rank and office of the absent Deputy; the Agents shall be likewise distinguished as first and second, in order that the first Agent may perform the duty of the absent Vice-Deputy.

The Princes who shall appoint them, shall in their choice have regard to superiority of parts, capacity in business, knowledge of Public Law and of commerce; likewise to their character, whether they be moderate, patient, zealous for the preservation of Peace; as also to their knowledge of the language of the Senate, and especially to their industry and application to labour. Each Prince may recall them, and substitute others, when he shall think fit, and shall not be allowed to employ the same Deputy for above four years together, in that function.

If a Senator is found to be of a temper opposite to peace and tranquillity, the Senate may by two-thirds of its votes declare him incapable to exercise the functions of Senator, and order that the Prince be desired by the Union to nominate another, and from that day he shall be excluded the Assemblies.

No one shall be afterwards appointed Deputy, but one who was for two years a Vice-Deputy; and no one shall be Vice-Deputy who has not been two years Agent in the City of Peace.

No one shall be afterwards nominated Judge of a Frontier Chamber, who has not dwelt two years together in the City of Peace.

4. Functions of the Deputies.

Each of the Senators or Deputies shall, in his turn, week by week, be Prince of the Senate, Governor or Director of the City

3. Qualités des Deputez, des Vice-Deputez et des Agens.

Chaque Prince, chaque Etat tiendra dans la Ville de Paix pendant toute l'année un Deputé, au moins de 40 ans, et deux Vice-Députez de même âge pour le remplacer en cas d'absence, ou de maladie; et deux Agens pour remplacer les Vice-Députez.

Les Vices-Deputez seront nommez dans les lettres de leur Souverain par premier et second; afin que le premier en cas de maladie et d'absence succede de plein droit au rang, et à la fonction du Député absent; les Agens seront de même nommez par premier et second afin que le premier Agent puisse faire la fonction du Vice-Deputé absent.

Les Princes qui les nommeront, auront égard dans leur choix à la supériorité d'esprit, à la capacité dans les affaires, à la connaissance du Droit public et des diverses sortes de commerce, au caractère moderé, patient, zelé pour la conservation de la Paix, à la connaissance de la langue du Senat; et surtout à l'application au travail: chaque Prince pourra les revoquer, et en substituer d'autres, quand il le jugera à propos, et il ne pourra employer le même Deputé plus de quatre ans de suite dans cette fonction.

Si un Senateur par son caractere d'esprit se trouvoit opposé à la Paix, et à la tranquilité, le Senat pourra aux deux tiers des voix le déclarer incapable d'en faire les fonctions, et ordonner que le Prince sera prié par l'Union d'en nommer un autre, et de ce jour-là il sera exclû des Assemblées.

Nul ne pourra dans la suite être nommé Deputé, qu'il n'ait été deux ans Vice-Deputé; nul ne pourra être Vice-Deputé qu'il n'ait été deux ans Agent dans la Ville de Paix.

Nul ne pourra dans la suite être nommé Juge d'une Chambre Frontiere, qu'il n'ait demeuré deux ans de suite à cette Ville de Paix.

4. Fonctions des Deputés.

Chacun des Senateurs ou Deputez sera tour à tour, et par semaine Prince du Senat, Gouverneur ou Directeur de la Ville de

of Peace; he shall preside in the General Assemblies, and in the Council of Five.

There shall be a Council of five Senators appointed to govern the daily affairs that are pressing and important, and which regard the safety of the Senators, and of the City of Peace, such as the watchword, orders to seize anyone, etc. The President may not give the watchword, but in their presence, nor give any order without their consent in writing, by a majority of votes.

The Deputy of the Sovereign, who shall first have signed the Treaty, shall first be President of the Senate, and each of the other Senators shall place themselves in the Chamber of the Senate, according to the order they shall have subscribed in; so that he who shall be found upon the seat at the right side of the chair of the President, shall succeed him in that dignity, on the day the administration of the first shall end; and he who has finished his administration shall place himself on the left hand of his successor, and shall not be President again, till all the members of the Assembly have presided in their turn.

When any Sovereign shall enter into the Union after it is already formed, his Deputy shall not be capacitated to be President of the Senate, till two months after he has taken his place; to the intent that he may have time in the Assembly to learn the customs of that company, and the duties of that employment.

The sitting of Senators in private committees, and in public assemblies, shall be regulated every week by their sitting in the Senate; so that they who are nearest the Presidency shall have the precedence in the weeks; but in private visits every one shall be *incognito*, and without any distinction.

5. Form of Deliberations, etc.

The Assembly shall deliberate upon no memorial till it be signed by three Senators, who shall certify that it is desirable to examine it. All deliberations shall be made upon printed memorials; they shall be distributed by the Secretary to all the members. Eight days after that distribution, the Assembly shall decide by a majority of votes, whether it is necessary to have

Paix, il présidera aux Assemblées generales, et au Conseil des cinq.

Il y aura un Conseil de cinq Senateurs destiné à gouverner les affaires journalieres, pressantes et importantes, qui regarderont la Sureté des Senateurs, et de la Ville de Paix, le mot du guet, les ordres pour arrêter quelqu'un, etc. Le Prince ne pourra donner le mot qu'en leur presence, n'y rien ordonner que de leur consentement par écrit, à la pluralité des voix.

La Deputé du Souverain qui aura signé le premier le Traité d'Union, commencera par être Prince du Senat, et chacun des autres Senateurs se rangeront dans la Chambre du Senat, par rapport au rang qu'ils auront tenu en signant, en sorte que celui qui se trouvera sur le banc à la droite du Fauteüil du Prince, luy succedera à cette Dignité, le jour que finira l'exercice du premier, et celui qui sortira de fonction se mettra à la gauche de son successeur, et ne redeviendra Président, qu'après que tous les membres de l'Assemblée auront présidé tour à tour.

Lorsque quelque Souverain entrera dans l'Union déja formée, son Deputé ne pourra être Prince du Sénat que deux mois après la Séance prise; afin que dans l'Assemblée il ait le loisir d'apprendre l'usage de cette Compagnie, et les fonctions de cet emploi.

La Séance des Senateurs dans les Bureaux particuliers, dans les Assemblées publiques, se reglera, chaque semaine, sur la Séance qu'ils prennent dans le Sénat, en sorte que les plus proches de la Principauté auront le pas et la Préséance dans les semaines, où ils en seront plus proches; mais dans les visites particulieres, chacun sera 'incognito', et sans rang marqué.

5. Forme des Déliberations, etc.

L'Assemblée ne déliberera sur aucun memoire, qu'il n'ait été signé de trois Sénateurs qui certifieront qu'il est à propos de l'examiner, toutes les déliberations se feront sur memoires imprimés, ils seront distribués par le Secretaire à tous les Deputez; huit jours après la Distribution on déliberera dans l'Assemblée à la pluralité, s'il est à propos de faire examiner ce memoire, si la

that memorial examined. If it be resolved to have it examined, the Secretary shall give it to the Chairman of the Committee, whose business it is to take cognisance of the subject matter of the memorial. When a memorial is sent to a committee, it shall be examined by them according to the forms that shall be agreed upon; the Chairman of the Committee shall give to the Secretary of the Senate the opinion of the Committee, with reasons therefor; the Secretary shall get copies printed, which he shall distribute to all the Senators. The day shall be appointed by the President of the Senate by a majority of votes, that everyone may then give his vote according to the importance of the affair. When the day appointed is come, each Senator shall write down and sign his opinion at the foot of the memorial, and shall return it to the Secretary.

On the day of the Assembly, the Secretary shall read all the opinions of one side, one after the other in course, and then count them; and the President shall with an audible voice declare which side carries it, and the judgment shall be written at the bottom of the memorial, which shall be carried into the Secretary's Office, by the Chairman of that Committee which had examined the affair. The judgment, or decision, of the Assembly shall be signed by the President, by the members of the Council of Five, and by the Secretary. All these decisions shall be recorded in various registers; whereof a printed copy shall be every year given to each Senator. Condemning a Sovereign by name in any sentence shall be as much as possible avoided; but the Senate shall make a general law upon the particular fact, which is the same thing as deciding it, without naming anyone; and the Sovereign, after that law, shall of himself execute what is ordered in it.

In the first Committee shall be examined the letters of the Ambassadors and Residents of the Union, and the replies to them, after they shall have been approved by the General Assembly; that Committee shall also choose persons to fill up the places of Ambassadors, Residents, Officers of the Frontier Chambers, Councils of the Senate, etc.

résolution passe à l'examen, le Secretaire le donnera au Président du Bureau, qui a la connaissance de la matiere du memoire.

Le memoire renvoyé à un Bureau, y sera examiné suivant les formes dont on conviendra, le Président du Bureau donnera au Secretaire du Senat l'avis du Bureau avec les motifs, le Secretaire en fera faire des copies imprimées, qu'il distribuera à tous les Senateurs, le jour sera marqué par le Prince du Senat à la pluralité des voix, afin que chacun y puisse apporter son souffrage selon l'importance de l'affaire; le jour marqué arrivé, chaque Senateur écrira, et signera son avis au pied du memoire, et le renvoyera au Secretaire.

Au jour de l'Assemblée le Secretaire lira de suite tous les avis semblables l'un après l'autre, et les comptera; et le Prince dira tout haut à quel avis la chose passe, et le Jugement sera mis au pied du memoire, apporté à la Secretairerie par le Président du Bureau, où l'affaire avoit esté examinée; le Jugement, ou décision de l'Assemblée sera signé par le Prince, par les Membres du Conseil des cinq, et par le Secretaire; toutes ces décisions se mettront en divers Registres, dont on donnera tous les ans une copie imprimée à chaque Sénateur, on fera en sorte autant qu'il sera possible d'éviter de condamner nommément un Souverain par aucun Jugement; mais le Sénat fera une Loy generale sur le fait particulier, qui est à décider, sans nommer aucune partie, afin que le Souverain après cette Loy passe de luy-même ce qu'elle ordonne.

Dans le premier Bureau on examinera les lettres des Ambassadeurs et des Résidens de l'Union, et on y fera les réponses après qu'elles auront esté approuvées de l'Assemblée generale, on y choisira les Sujets pour remplacer les Ambassadeurs, les Résidens, les Officiers des Chambres Frontieres, les Conseils du Senat, etc.

In the second shall be chosen the officers of the garrison, and the affairs of war, if there be any, enquired into; the choice of a General shall be there made, and whatever else concerns the troops of the frontiers of Europe.

In the third shall be examined the affairs of the revenue, the accounts, and the selection of the Officers of the revenue.

In the fourth shall be examined the memorials about such regulations as may concern either the Union in general or the City of Peace, and its territory, or the laws of the Frontier Chambers.

Besides these four Standing Committees, there shall be other temporary Committees, formed expressly to reconcile differences between Sovereign and Sovereign. These Committees of Reconciliation shall consist of members nominated by letters patent of the Senate by a majority of votes; the Commissioners of this Committee shall be thanked, and shall receive a fee in case they reconcile the parties, and get them to sign an agreement; and if they cannot succeed, the Chairman shall give the opinion of the Committee to the General Secretary, who shall distribute printed copies thereof to all the Senators; that, being well informed, they may give their opinion in writing in full Assembly to the Secretary, and if after the law is made by the Senate for all such cases, the Sovereign who is in the wrong should not pay obedience to the law, then the President of the Senate shall pronounce a judgment by name against the Sovereign whose demand or vindication did not seem just to the other Sovereigns.

This arbitral judgment shall be pronounced by a majority of votes provisionally, and six months afterwards by a second judgment by the three-fourths of the votes definitively; thus there shall be always two judgments upon every dispute. A time shall be appointed for the votes to be given, and such a time as will admit of the plenipotentiaries of the most distant States receiving the instructions of their Sovereigns. If one or more have not received an answer within the time appointed, the Senate may, by a majority of votes, give further time; and when

Dans le second on choisira les Officiers de la Garnison, on y examinera les affaires de la Guerre, s'il y en a; le choix d'un General de l'Union et tout ce qui regardera les Troupes des Frontieres de l'Europe.

Dans le troisième on examinera les affaires de Finances, les comptes, les choix des Officiers de Finances.

Dans le quatrième on examinera les memoires sur les Règlemens, qui peuvent regarder, ou l'Union generale, ou la Ville de Paix et son Territoire, ou les Lois des Chambres Frontières.

Outre ces quatre Bureaux perpetuels, il y aura des Bureaux passagers, formés exprès pour concilier les differents entre Souverain et Souverain : ces Bureaux de conciliation seront composés de membres nommés par lettres du Sénat à la pluralité des voix, les Commissaires de ce Bureau seront remerciés, et auront une gratification, en cas qu'ils parviennent à la conciliation des Parties, et à leur faire signer un accord ; et en cas qu'ils n'y réussissent pas, le Président donnera l'avis du Bureau au Secretaire General, qui en distribuera des copies imprimées à tous les Sénateurs, afin qu'étant informés, ils puissent donner leur avis par écrit en pleine Assemblée au Secretaire, et si après la Loy faite par le Sénat pour tous les cas pareils, il arrivoit que le Souverain qui a tort ne voulût pas deferer à la Loy, alors le Prince du Sénat prononcera un Jugement nommément contre le Souverain, dont la demande, ou la deffense n'aura pas parû juste aux autres Souverains.

Ce Jugement arbitral sera prononcé à la pluralité des voix pour la provision, et six mois après par un second Jugement aux trois quarts des voix, pour la définitive; ainsi il y aura toûjours sur chaque different deux Jugements.

Il sera marqué un tems pour donner les suffrages, et un tems tel que les Plenipotentiaires des Etats les plus éloignés, puissent avoir les instructions de leurs Souverains. Si quelqu'un ou quelques uns n'avoient pas reçû réponse dans le délai prescrit, le Sénat pourra à la pluralité des voix, donner un nouveau délai, après

that is up it shall proceed to judgment, whether the plenipotentiary that refuses to give his vote be absent or not.

All these Committees shall assemble within the bounds of the President's Palace, unless the health of the Chairman of Committee requires to have it assembled at his house. The Senate, by a three-fourths majority, shall name the Chairman and members of the Committees, which shall consist of five Deputies and of ten Vice-Deputies; the Clerk of the Committee shall be a subject of the Union, either by birth or by naturalisation.

The Deputies of the Republics of *Holland*, *Venice*, the *Swiss*, the *Genoese*, shall be always of the Council of Five; when a Deputy of one of those Republics shall be President of the Senate, the place that shall be vacant in that Council shall be filled by turns, beginning with the Deputy who shall have last presided in the General Assembly.

The language of the Senate, in which the deliberations shall be made and the Memorials be given in, shall be the language most in use, and the most common in *Europe* of all the living languages.

Every Deputy shall be allowed the free exercise of his religion, a chapel in his palace, with what ministers are necessary; those who are of his religion, whether they be of his nation or of any other, shall have the same liberty therein. The Senate shall make very express prohibition, upon pain of imprisonment and greater punishments, according to the faults, against any disturbance in them or against turning anything publicly into ridicule, or writing, or printing anything against any particular religion in the territory of the Republic. And it shall be esteemed a public turning into ridicule if done in the presence of any person belonging to the religion attacked.

The Union shall endeavour to agree upon the name and weight of coins, upon the same weights and measures, and upon the same astronomical calculations throughout all *Europe;* and especially upon the beginning of the year.

lequel il sera procédé au Jugement, soit que le Plenipotentiaire, qui refuse de donner son suffrage, soit present ou absent.

Tous ces Bureaux s'assembleront dans l'Enceinte du Palais du Prince, a moins que la santé du Président d'un Bureau ne demandât que l'on s'assemblât chez lui.

Le Sénat aux trois quarts des voix nommera les Présidents, et les membres des Bureaux qui seront composés de cinq Deputez, et de dix Vice-Deputez; le Secretaire du Bureau sera Sujet de l'Union, soit par naissance, soit par lettres.

Les Deputez des Républiques de Hollande, de Venise, des Suisses et de Genues seront toujours du Conseil des cinq, quand un Député d'une de ces Républiques sera Prince du Sénat, la place qui vaquera dans ce Conseil sera remplie tour à tour, à commencer par le Député du Prince qui aura présidé le dernier à l'Assemblée generale.

La langue du Sénat dans laquelle ces déliberations seront faites, les memoires donnez, sera la langue qui se trouve le plus en usage, et la plus commune en Europe, entre les langues vivantes.

Chaque Député aura libre exercice de sa Religion, un Temple dans son Palais, avec les Ministres convenables; ceux qui seront de sa Religion, soit de sa Nation, soit d'autre Nation, y auront la même liberté : le Sénat fera très expresses deffenses, sous peine de prison, et de plus grandes peines, selon les cas, d'y apporter aucun trouble, d'en tourner quelque chose en raillerie publiquement, et de rien écrire, ou imprimer contre elle dans le Territoire de la République, et ce sera une raillerie censée, publique, quand elle sera faite en presence de quelqu'un de la Religion attaquée.

L'Union tâchera de convenir du titre, et du poids des monnoyes, d'une même livre, d'un même pied, du même calcul astronomique par toute l'Europe; et surtout au commencement de chaque année.

6. Security of the Frontiers of Europe.

Not of modern interest.

7. Quotas or Ordinary Revenues of the Union.

The Revenue of the Union shall consist in the ordinary quota each Sovereign shall pay; the quota shall be regulated provisionally, equivalent to three hundred thousand pounds yearly, which shall be paid by the least powerful Sovereign, who shall have but one vote; the others shall pay in proportion to their revenues; that quota shall afterwards be lessened according to the diminution of the exigencies of the Union, which would then have finished its buildings, fortifications, magazines, &c. The quota for the Frontiers of *Europe*, and the quota in case of war, shall be regulated, in proportion, by the Senate.

The quota shall be paid by the General Treasurer of that State in equal parts, the first of each month, to the order of the General Treasurer of the Union, and upon the receipt of his clerk, who shall reside in the capital city of that State. That clerk shall every month pay the salaries of the Ambassador, of the Residents, and of the Judges of the Frontier Chambers in that State.

The Union shall every month calculate the interest of the sum which shall not have been paid regularly to the Clerk of the Treasurer, in order to repay those who shall have made advances to him.

8. Asiatic Union.

The *European* Union shall endeavour to procure in *Asia* a *Permanent* Society, like that of *Europe*, that peace may be maintained there also; and especially that it may have no cause to fear any *Asiatic* Sovereign, either as to its tranquillity, or its commerce in *Asia*.

6. Sûreté des Frontières de l'Europe.

. . . . . .

7. Contingens, ou Revenus ordinaires de l'Union.

Le Revenu de l'Union sera composé du contingent ordinaire que payera chaque Souverain, le contingent sera réglé par provision, a raison de trois cents mille livres par un monnoye presente de France, ou valeur en autre monnoye que payera le Souverain le moins puissant, qui aura seul une voix, les autres payeront à proportion de leurs revenus; ce contingent sera diminué dans la suite eû ègard à la diminution des besoins de l'Union, qui aura alors fait ses bâtimens, ses fortifications, ses magasins, etc. Le contingent pour les Frontières d'Europe, et le contingent en cas de Guerre, seront reglez à proportion par le Sénat.

Le contingent se payera par le Tresorier General de cet Etat, par parties égales, le premier de chaque mois, sur la procuration du Tresorier General de l'Union, et sur la quittance de son Commis, qui résidera dans la Ville Capitale de cet Etat. Ce Commis payera par mois les appointmens de l'Ambassadeur, des Résidens et des Juges des Chambres Frontières.

L'Union reglera par mois les interêts des sommes, qui ne seront pas payées régulièrement au Commis du Trésorier, pour rembourser ceux qui en auront fait les avances.

8. Union Asiatique.

L'Union Européenne tâchera de procurer en Asie une Societé permanente semblable à celle d'Europe, pour y entretenir la Paix; et surtout pour n'avoir rien à craindre d'aucun Souverain Asiatique, soit pour sa propre tranquilité, soit pour son Commerce en Asie.

JEREMY BENTHAM ON AN INTERNATIONAL TRIBUNAL.—1789.

He proposes a plan of general and permanent pacification for all Europe, the maintenance of which would be considerably facilitated by the establishment of a common court of judicature for the decision of differences between the several nations, although such Court were not to be armed with any coercive powers.

While there is no such common tribunal something might be said for the idea that whenever there is any difference of opinion between the negotiators of two nations, war is to be the consequence. Concession to notorious injustice invites fresh injustice.

I. But, "Establish a common tribunal, the necessity for war no longer follows from difference of opinion. Just or unjust, the decision of the Arbiters will save the credit, the honour of the contending party.

II. "Can the arrangement proposed be justly styled visionary, when it has been proved of it that—

1. "It is the interest of the parties concerned;

2. "They are already sensible of that interest;

3. "The situation it would place them in is no new one, nor any other than the original situation they set out from;"

And when "difficult and complicated conventions have been [already] effectuated:" *e.g.*, "(1) The Armed Neutrality, (2) the American Confederation, (3) the German Diet, (4) the Swiss League. Why should not the European fraternity subsist as well as the German Diet or the Swiss League?"

III. "Such a Congress or Diet might be constituted by each Power sending two deputies to the place of meeting: one of these to be the principal, the other to act as an occasional substitute.

IV. "The proceedings of such Congress or Diet should be all public.

V. "Its power would consist:—

1. "In reporting its opinion.

2. "In causing that opinion to be circulated in the dominion of each State. Manifestoes are in common use. A manifesto is designed to be read either by the subjects of the State complained of, or by other States, or by both. It is an appeal to them. It calls for their opinion. The difference is, that in that case (of a manifesto) nothing of proof is given; no opinion regularly made known.

3. "After a certain time, in putting the refractory State under the ban of Europe.

"There might, perhaps, be no harm in regulating as a last resource, the contingent to be furnished by the several States for enforcing the decrees of the Court. But the necessity for the employment of this resource would, in all human probability, be superseded for ever by having recourse to the much more simple and less burthensome expedient of introducing into the instrument by which such Court was instituted a clause, guaranteeing the liberty of the press in each State, in such sort, that the Diet might find no obstacle to its giving, in every State, to its decrees, and to every paper whatever, which it might think proper to sanction with its signature, the most extensive and unlimited circulation."—WORKS, VOL. II., pp. 546 and *seq.*

KANT'S "PERPETUAL PEACE."

Kant's scheme was published in the year 1795, when the author, accordingly, was 71 years of age.

The immediate occasion of its publication was undoubtedly the Congress of Bâle, which took place in the year 1795, and by which the war carried on between Germany and France, for the preceding four years, was brought to a brief termination.

The scheme contains no reference to a Tribunal; its details are, therefore, omitted.

It consisted, however, of two sections, the first containing six "Preliminary Articles," referring to Treaties of Peace, Subjugation of an Independent State, Standing Armies, State Debts, Interference by Force with the Constitution and Government of a State, and certain Acts of Hostility in time of War.

The second section contained three definite Articles towards establishing Perpetual Peace amongst States. These are:—

1. The Civil Constitution of every State must be Republican.

2. All International Right must be grounded upon a Federation of Free States.

3. Right between Nations must be limited to the Conditions of Universal Hospitality.

LA PAIX PERPÉTUELLE, PAR EMMANUEL KANT.

Le Projet de Kant a été publié en 1795, quand l'auteur avait 71 ans, et quand la paix de Bâle, signée en 1795, mit fin à la lutte engagée, pendant quatre ans, par la Prusse contre la République française. La traduction française fut faite en 1796, sur la deuxième édition allemande.

Le Projet ne fait pas mention d'un Tribunal, or nous en omettons les détails.

Cependant il comprend deux sections, dont la première contient six "Articles préliminaires :" Traités de Paix, L'acquisition d'un Etat indépendent, Les Armées permanentes, Dettes nationales, Ingérence de force dans la Constitution ou dans le Gouvernement d'un Etat, et Certaines hostilités dans une guerre.

La deuxième section contient aussi trois " Articles Définitifs d'un Traité de Paix perpétuelle entre les Etats," c'est à dire :—

1. La Constitution Civile de chaque Etat doit être Républicaine.

2. Le Droit International doit être fondé sur une Fédération d'Etats libres.

3. Le Droit cosmopolitique doit se borner aux conditions d'une hospitalité universelle.

EXTRACTS FROM DRAFT PROJECT OF A COUNCIL AND HIGH COURT OF INTERNATIONAL ARBITRATION.

PREPARED BY THE LATE PROFESSOR LEONE LEVI.

1. The several States of Europe and America are urged to enter into communication among themselves with a view to appointing a Permanent Council of International Arbitration, a possible form of which is hereinafter suggested.

2. Each State to nominate a given equal number of members, publicists, and jurists, or other persons of high reputation and standing, to constitute a Council of International Arbitration, to undertake the settlement of international disputes by means of mediation or arbitration, and to take measures whereby international differences may be removed or settled in a friendly manner.

3. Such a Council may be formed by any group of States, even two only, for international affairs relating to themselves—*e.g.*, the United Kingdom may agree with the United States of America to form a joint Council, having the same functions upon questions between them as the more comprehensive body provided by Arts. 1 and 2 would have over the larger area of disputes.

4. If such a beginning is once made, even by two States only, it is probable that others will follow the example. And it will be one of the duties of the Council to extend the sphere of its influence beyond its constituent States as opportunity occurs.

5. The Council will at its first meeting appoint its Secretaries.

6. On the occurrence of any grave dispute between any States represented on the Council, the secretaries, at the request of any two members of the Council, shall summon a meeting to consider what steps may be adopted for preventing, if possible, a resort to war measures, and for offering the aid of the Council in the shape of arbitration.

7. On the occurrence of any grave dispute to which a State not represented on the Council is a party, the Council may be summoned in the same way to consider whether it is feasible and useful to offer the aid of the Council in the shape of mediation.

8. When the contending States agree to leave their disputes to arbitration, the Council will appoint some of its members, and some other persons specially nominated by the contending States, to be a High Court of International Arbitration, and its award in the case shall be binding on the contending States.

9. The appointment of the members of the High Court shall be made with special regard to the character and locality of the dispute, and shall terminate on the settlement of the dispute or abandonment of the arbitration.

10. It is not contemplated to provide for the exercise of physical force in order to secure reference to the Council, or to compel compliance with the award of the Court when made. The authority of the Council is moral, not physical. Nevertheless, when the award of its regularly approved Court is set at nought by the contending parties, it shall be the duty of the Council to communicate the facts of the case, and the award of the Court thereon, to all the States represented in the same.

11. Where, likewise, on the occurrence of any dispute, the action of the Council is ignored by either or both, or all the contending States, it will be within the competency of the Council to review the facts in dispute, and to report thereon to the States which it represents.

12. The Council will make rules for its own conduct and for the procedure of the High Court of International Arbitration. The rules adopted in the Alabama Arbitration, and those proposed by the Institute of International Law, may supply valuable suggestions in the framing of the same.

13. It is suggested that the seat of the Council shall be a neutral city, such as Berne or Brussels.

14. The appointment of members of Council should be for a definite number of years, provision being made for the appointment by the respective States of new members to fill the place of those who may cease to be members by retirement or death.

15. The cost of maintaining the Council shall be borne equally by every State concurring in its organisation. The cost of any reference to arbitration shall be borne by the contending parties in equal shares, regardless of the result of the award on the same on the contending parties.

RULES PROPOSED BY THE INSTITUTE OF INTERNATIONAL LAW.

ADOPTED AT THE HAGUE IN 1875.

ART. 1.—The agreement to arbitrate is concluded by a valid international treaty.

It may be so concluded:

(*a.*) By anticipation, whether for any and every difference, or for those of a certain class specially to be designated, that may arise between the contracting states;

(*b.*) For one or more differences already existing.

ART. 2.—The agreement to arbitrate gives to each of the contracting parties the right to appeal to the tribunal of arbitration which it designates for the decision of the question in dispute. If the agreement to arbitrate does not designate the number and names of the arbitrators, the tribunal of arbitration shall proceed according to the provisions laid down in the agreement to arbitrate, or in some other agreement.

If there be no such provisions, each of the contracting parties shall choose an arbitrator, and the two arbitrators thus appointed shall choose a third arbitrator, or name a third person who shall appoint him.

If the two arbitrators appointed by the parties cannot agree on the choice of a third arbitrator, or if one of the parties refuses the co-operation which, according to the agreement to arbitrate, he should give to the formation of the court of arbitration, or if the person named refuses to choose, the agreement to arbitrate is annulled.

ART. 3.—If in the first instance, or because they have not been able to agree on the choice of arbitrators, the contracting parties have agreed that the tribunal of arbitration should be formed by a third person named by them, and if the person named undertakes the formation of the tribunal, the course to be followed shall depend, first, on the provisions of the agreement to arbitrate. If there be

PROJET DE RÈGLEMENT POUR LA PROCÉDURE ARBITRALE INTERNATIONALE

ADOPTÉ PAR L'INSTITUT DE DROIT INTERNATIONAL LE 28 AOÛT 1875 À LA HAYE.

ART. 1.—Le compromis est conclu par traité international valable.

Il peut l'être :

(*a.*) *D'avance*, soit pour toutes contestations, soit pour les contestations d'une certaine espèce à déterminer, qui pourraient s'élever entre les Etats contractants :

(*b.*) Pour une contestation ou plusieurs contestations *déjà nées* entre les Etats contractants.

ART. 2.—Le compromis donne à chacune des parties contractantes le droit de s'adresser au tribunal arbitral qu'il désigne pour la décision de la contestation. A défaut de désignation du nombre et des noms des arbitres dans le compromis, le tribunal arbitral sera composé de trois membres, et la marche à suivre pour former le tribunal arbitral se règlera selon les dispositions prescrites par le compromis ou par une autre convention.

A défaut de dispositions, chacune des parties contractantes choisit de son côté un arbitre, et les deux arbitres ainsi nommés choisissent un tiers-arbitre ou désignent une personne tierce qui l'indiquera.

Si les deux arbitres nommés par les parties ne peuvent s'accorder sur le choix d'un tiers-arbitre, ou si l'une des parties refuse la coopération qu'elle doit prêter selon le compromis à la formation du tribunal arbitral, ou si la personne désignée refuse de choisir, le compromis est éteint.

ART. 3.—Si, dès le principe, ou parce qu'elles n'ont pu tomber d'accord sur le choix des arbitres, les parties contractantes sont convenues que le tribunal arbitral serait formé par une personne tierce par elles désignée, et si la personne désignée se charge de la formation du tribunal arbitral, la marche à suivre à cet effet se règlera en première ligne d'après les prescriptions du compromis.

no such provisions, then the third person so named may either himself appoint the arbitrators, or propose a certain number of persons, among whom each of the parties shall choose.

ART. 4.—The following shall be eligible for appointment as international arbitrators; Sovereigns and heads of governments, without any restriction; and all persons who are competent, according to the law of their country, to exercise the functions of arbitrator.

ART. 5.—If the parties have agreed upon individual arbitrators, the incompetency of, or the allegation of a valid objection to, one of such arbitrators, invalidates the whole agreement to arbitrate, unless the parties can agree upon another competent arbitrator.

If the agreement to arbitrate does not prescribe the manner of selecting another arbitrator in case of incompetency, or of the allegation of a valid objection, the method prescribed for the original choice must again be followed.

ART. 6.—The acceptance of the office of arbitrator must be in writing.

ART. 7.—If an arbitrator refuses the office, or if he resigns after having accepted it, or if he dies, or becomes mentally incompetent, or if he is validly challenged on account of inability to serve according to the terms of Art. 4, then the provisions of Art. 5 shall be in force.

ART. 8.—If the seat of the tribunal of arbitration is not named either by the agreement to arbitrate or by a subsequent agreement of the parties, it shall be named by the arbitrator or by a majority of the arbitrators.

The tribunal of arbitration is authorised to change the place of its sessions, only in case the performance of its duties at the place agreed upon is impossible or manifestly dangerous.

ART. 9.—The tribunal of arbitration, if composed of several members, chooses a president from among its own number, and appoints one or more secretaries.

A défaut de prescriptions, le tiers désigné peut ou nommer lui-même les arbitres ou proposer un certain nombre de personnes parmi lesquelles chacune des parties choisira.

ART. 4.—Seront capables d'être nommés arbitres internationaux les souverains et chefs de gouvernements sans aucune restriction, et toutes les personnes qui ont la capacité d'exercer les fonctions d'arbitre d'après la loi commune de leur pays.

ART. 5.—Si les parties ont valablement compromis sur des arbitres individuellement déterminés, l'incapacité ou la récusation valable, fût-ce d'un seul de ces arbitres, infirme le compromis entier, pour autant que les parties ne peuvent se mettre d'accord sur un autre arbitre capable.

Si le compromis ne porte pas détermination individuelle de l'arbitre en question, il faut, en cas d'incapacité ou de récusation valable, suivre la marche prescrite pour le choix originaire (art. 2, 3).

ART. 6.—La déclaration d'acceptation de l'office d'arbitre a lieu par écrit.

ART. 7.—Si un arbitre refuse l'office arbitral, ou s'il se départit après l'avoir accepté, ou s'il meurt, ou s'il tombe en état de démence, ou s'il est valablement récusé pour cause d'incapacité aux termes de l'article 4, il y a lieu à l'application des dispositions de l'article 5.

ART. 8.—Si le siège du tribunal arbitral n'est désigné ni par le compromis ni par une convention subséquente des parties, la désignation a lieu par l'arbitre ou la majorité des arbitres.

Le tribunal arbitral n'est autorisé à changer de siège qu'au cas où l'accomplissement de ses fonctions au lieu convenu est impossible ou manifestement périlleux.

ART. 9.—Le tribunal arbitral, s'il est composé de plusieurs membres, nomme un président, pris dans son sein, et s'adjoint un plusieurs secrétaires.

The tribunal of arbitration decides in what language or languages its deliberations and the pleadings of the litigants shall be conducted, and the documents and other evidence be presented. It keeps minutes of its sessions.

ART. 10.—The tribunal of arbitration sits with all its members present. It may, however, delegate one or more of its members, or even commission outside persons, to draw up certain preliminary proceedings.

If the arbitrator is a state, or its head, a commune or other corporation, an authority, a faculty of law, a learned society, or the actual president of the commune, corporation, authority, faculty, or society, all the pleadings may be conducted, with the consent of the parties, before a commission appointed *ad hoc* by the arbitrator. A protocol of such pleadings shall be kept.

ART. 11.—No arbitrator can, without the consent of the litigants, name a substitute for himself.

ART. 12.—If the agreement to arbitrate, or a subsequent agreement of the parties, prescribes the method of procedure to be followed by the court of arbitration, or prescribes to it the observance of a definite and positive law of procedure, the tribunal of arbitration must conform thereto. If there be no such provision, the procedure to be followed shall be freely prescribed by the tribunal of arbitration, which is in such case required to conform only to the rules which it has informed the parties it would observe.

The control of the discussions belongs to the president of the tribunal.

ART. 13.—Each of the parties may appoint one or more persons to represent it before the tribunal.

ART. 14.—Exceptions based on the incompetency of the arbitrators must be taken before any others. In case of the silence of the parties, any later contestation is excluded, except for cases of incompetency that have subsequently supervened.

Le tribunal arbitral décide en quelle langue ou quelles langues devront avoir lieu ses délibérations et les débats des parties, et devront être présentés les actes et les autres moyens de preuve. Il tient procès verbal de ses délibérations.

ART. 10.—Le tribunal arbitral délibère tous membres présents. Il lui est loisible toutefois de déléguer un ou plusieurs membres ou même de commettre des tierces personnes pour certains actes d'instruction.

Si l'arbitre est un Etat ou son chef, une commune ou autre corporation, une autorité, une faculté de droit, une société savante, ou le président actuel de la commune, corporation, autorité, faculté, compagnie, tous les débats peuvent avoir lieu du consentement des parties devant le commissaire nommé *ad hoc* par l'arbitre. Il en est dressé protocole.

ART. 11.—Aucun arbitre n'est autorisé sans le consentement des parties à se nommer un substitut.

ART. 12.—Si le compromis ou une convention subséquente des compromettants prescrit au tribunal arbitral le mode de procédure à suivre, ou l'observation d'une loi de procédure déterminée et positive, le tribunal arbitral doit se conformer à cette prescription. A défaut d'une prescription pareille, la procédure à suivre sera choisie librement par le tribunal arbitral, lequel est seulement tenu de se conformer aux principes qu'il a déclaré aux parties vouloir suivre.

La direction des débats appartient au président du tribunal arbitral.

ART. 13.—Chacune des parties pourra constituer un ou plusieurs représentants auprès du tribunal arbitral.

ART. 14.—Les exceptions tirées de l'incapacité des arbitres doivent être opposées avant toute autre. Dans le silence des parties, toute contestation ultérieure est exclue, sauf les cas d'incapacité postérieurement survenue.

The arbitrators must pronounce upon the exceptions taken to the incompetency of the court of arbitration (subject to the appeal referred to in the next paragraph), and must pronounce in accordance with the provisions of the agreement to arbitrate.

There shall be no appeal from the preliminary judgments on the question of competency, except in connection with the appeal from the final judgment in the arbitration.

In case the doubt on the question of competency depends upon the interpretation of a clause of the agreement to arbitrate, the parties are deemed to have given to the arbitrators full power to settle the question, unless there be a clause to the contrary.

ART. 15.—Unless there be provisions to the contrary in the agreement to arbitrate, the tribunal of arbitration has the right:

1. To determine the forms, and the periods of time, in which each litigant must, by his duly authorised representatives, present his conclusions, support them in fact and in law, lay his proofs before the tribunal, communicate them to his opponent, and produce the documents the production of which his opponent demands.

2. To consider as conceded the claims of each party which are not plainly contested by his opponent, as, for instance, the alleged contents of documents which the opponent, without sufficient reason, fails to produce.

3. To order new hearings of the parties, and to demand from each of them the clearing up of doubtful points.

4. To make rules of procedure (for the conduct of the case), to compel the production of evidence, and, if necessary, to require of a competent court the performance of judicial acts which the tribunal of arbitration is not qualified to perform, notably the swearing of experts and of witnesses.

5. To decide with its own free judgment on the interpretation of the documents produced, and in general on the merits of the evidence presented by the litigants.

The forms and the periods of time, mentioned in clauses 1 and 2 of the present article, shall be determined by the arbitrators by a preliminary order.

Les arbitres doivent prononcer sur les exceptions tirées de l'incompétence du tribunal arbitral, sauf le recours dont il est question à l'art 24, 2me al., et conformément aux dispositions du compromis.

Aucune voie de recours ne sera ouverte contre des jugements préliminaires sur la compétence, si ce n'est cumulativement avec le recours contre le jugement arbitral définitif.

Dans le cas où le doute sur la compétence dépend de l'interprétation d'une clause du compromis, les parties sont censées avoir donné aux arbitres la faculté de trancher la question, sauf clause contraire.

ART. 15.—Sauf disposition contraire du compromis, le tribunal a le droit :

1° De déterminer les formes et délais dans lesquels chaque partie devra, par ses représentants dûment légitimés, présenter ses conclusions, les fonder en fait et en droit, proposer ses moyens de preuve au tribunal, les communiquer à la partie adverse, produire les documents dont la partie adverse requiert la production ;

2° De tenir pour accordées les prétentions de chaque partie qui ne sont pas nettement contestées par la partie adverse ainsi que le contenu prétendu des documents dont la partie adverse omet la production sans motifs suffisants ;

3° D'ordonner de nouvelles auditions des parties, d'exiger de chaque partie l'éclaircissement de points douteux ;

4° De rendre des ordonnances de procédure (sur la direction du procès), faire administrer des preuves et requérir, s'il le faut, du tribunal compétent les actes judiciaires pour lesquels le tribunal arbitral n'est pas qualifié, notamment l'assermentation d'experts et de témoins ;

5° De statuer, selon sa libre appréciation, sur l'interprétation des documents produits et généralement sur le mérite des moyens de preuve présentés par les parties.

Les formes et délais mentionnés sous les numéros 1 et 2 du présent article seront déterminés par les arbitres dans une ordonnance préliminaire.

ART. 16.—Neither the parties nor the arbitrators can officially implead other states or third persons, without the special and express authorization of the agreement to arbitrate, and the previous consent of such third parties.

The voluntary intervention of a third party can be allowed only with the consent of the parties who originally concluded the agreement to arbitrate.

ART. 17.—Cross-actions can be brought before the tribunal of arbitration only so far as they are provided for by the original agreement to arbitrate, or as the parties and the tribunal may agree to allow them.

ART. 18.—The tribunal of arbitration decides in accordance with the principles of international law, unless the agreement to arbitrate prescribes different rules or leaves the decision to the free judgment of the arbitrators.

ART. 19.—The tribunal of arbitration cannot refuse to pronounce judgment, on the pretext that it is insufficiently informed either as to the facts, or as to the legal principles to be applied.

It must decide finally each of the points at issue. If, however, the agreement to arbitrate does not require a final decision to be given simultaneously on all the points, the tribunal may, while deciding finally on certain points, reserve others for subsequent disposition.

The tribunal of arbitration may render interlocutory or preliminary judgments.

ART. 20.—The final decision must be pronounced within the period of time fixed by the agreement to arbitrate, or by a subsequent agreement. If there be no other provision, a period of two years, from the day of the conclusion of the agreement to arbitrate, is to be considered as agreed on. The day of the conclusion of the agreement is not included, nor the time during which one or more arbitrators have been prevented, by *force majeure*, from fulfilling their duties.

In case the arbitrators, by interlocutory judgments, order preliminary proceedings, the period is to be extended for a year.

ART. 21.—Every judgment, final or provisional, shall be deter-

ART. 16.—Ni les parties ni les arbitres ne peuvent d'office mettre en cause d'autres Etats ou des tierces personnes quelconques, sauf autorisation spéciale exprimée dans le compromis et consentement préalable du tiers.

L'intervention spontanée d'un tiers n'est admissible qu'avec le consentement des parties qui ont conclu le compromis.

ART. 17.—Les demandes reconventionnelles ne peuvent être portées devant le tribunal arbitral qu'en tant qu'elles lui seront déférées par le compromis, ou que les deux parties et le tribunal sont d'accord pour les admettre.

ART. 18.—Le tribunal arbitral juge selon les principes du droit international, à moins que le compromis ne lui impose des règles différentes ou ne remette la décision à la libre appréciation des arbitres.

ART. 19.—Le tribunal arbitral ne peut refuser de prononcer sous le prétexte qu'il n'est pas suffisamment éclairé soit sur les faits, soit sur les principes juridiques qu'il doit appliquer.

Il doit décider définitivement chacun des points en litige. Toutefois, si le compromis ne prescrit pas la décision définitive simultanée de *tous* les points, le tribunal peut, en décidant définitivement certains points, réserver les autres pour une procédure ultérieure.

Le tribunal arbitral peut rendre des jugements interlocutoires ou préparatoires.

ART. 20.—Le prononcé de la décision définitive doit avoir lieu dans le délai fixé par le compromis ou par une convention subséquente. A défaut d'autre détermination, on tient pour convenu un délai de deux ans à partir du jour de la conclusion du compromis. Le jour de la conclusion n'y est pas compris, on n'y comprend pas non plus le temps durant lequel un ou plusieurs arbitres auront été empêchés, par force majeure, de remplir leurs fonctions.

Dans le cas où les arbitres, par des jugements interlocutoires, ordonnent des moyens d'instruction, le délai est augmenté d'une année.

ART. 21.—Toute décision définitive ou provisoire sera prise à

mined by a majority of all the arbitrators appointed, even in case one or more of them should refuse to concur in it.

ART. 22.—If the tribunal of arbitration finds the claims of neither of the parties justified, it shall so declare, and, unless limited in this respect by the agreement to arbitrate, shall determine the true state of the law with regard to the parties to the dispute.

ART. 23.—The arbitral sentence must be drawn up in writing, and contain an exposition of the grounds of the decision, unless exemption from this be stipulated in the agreement to arbitrate. It must be signed by each of the members of the court of arbitration. If a minority refuse to sign it, the signature of the majority is sufficient, with a written statement that the minority refuse to sign.

ART. 24.—The sentence, together with the grounds, if an exposition of them be given, is formally communicated to each party. This is done by communicating a certified copy to the representative of each party, or to its attorney appointed *ad hoc*.

After the sentence has been communicated to the representative or attorney of one of the parties, it cannot be changed by the tribunal of arbitration.

Nevertheless, the tribunal has the right, so long as the time limits of the agreement to arbitrate have not expired, to correct errors in writing or in reckoning, even though neither of the parties should suggest it; and to complete the sentence on points at issue not decided, on the suggestion of one of the parties, and after giving the other party a hearing. An interpretation of the sentence is allowable only on demand of both parties.

ART. 25.—The sentence duly pronounced decides, within the scope of its operation, the point at issue between the parties.

ART. 26.—Each party shall bear its own costs, and half of the costs of the tribunal of arbitration, without prejudice to the decision of the Court as to the indemnity that one or the other party may be condemned to pay.

ART. 27.—The sentence of arbitration shall be void in case of the avoidance of the agreement to arbitrate, or of an excess of power, or of proved corruption of one of the arbitrators, or of essential error.

la majorité de tous les arbitres nommés, même dans le cas où l'un ou quelques-uns des arbitres refuseraient d'y prendre part.

ART. 22.—Si le tribunal arbitral ne trouve fondées les prétentions d'aucune des parties, il doit le déclarer, et, s'il n'est limité sous ce rapport par le compromis, établir l'état réel du droit relatif aux parties en litige.

ART. 23.—La sentence arbitrale doit être rédigée par écrit et contenir un exposé des motifs, sauf dispense stipulée par le compromis. Elle doit être signée par chacun des membres du tribunal arbitral. Si une minorité refuse de signer, la signature de la majorité suffit, avec déclaration écrite que la minorité a refusé de signer.

ART. 24.—La sentence, avec les motifs s'ils sont exposés, est notifiée à chaque partie. La notification a lieu par signification d'une expédition au représentant de chaque partie ou à un fondé de pouvoirs de chaque partie constitué *ad hoc*.

Même si elle n'a été signifiée qu'au représentant ou au fondé de pouvoirs d'une seule partie, la sentence ne peut plus être changée par le tribunal arbitral.

Il a néanmoins le droit, tant que les délais du compromis ne sont pas expirés, de corriger de simples fautes d'écriture ou de calcul, lors même qu'aucune des parties n'en ferait la proposition, et de compléter la sentence sur les points litigieux non décidés, sur la proposition d'une partie et après audition de la partie adverse. Une interprétation de la sentence notifiée n'est admissible que si les deux parties la requièrent.

ART. 25.—La sentence dûment prononcée décide, dans les limites de sa portée, la contestation entre les parties.

ART. 26.—Chaque partie supportera ses propres frais et la moitié des frais du tribunal arbitral, sans préjudice de la décision du tribunal arbitral touchant l'indemnité que l'une ou l'autre des parties pourra être condamnée à payer.

ART. 27.—La sentence arbitrale est nulle en cas de compromis nul, ou d'excès de pouvoir, ou de corruption prouvée d'un des arbitres, ou d'erreur essentielle.

PROJECT OF A PERMANENT TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND SWITZERLAND, ADOPTED BY THE SWISS FEDERAL COUNCIL, JULY 24TH, 1883.

1. The contracting parties agree to submit to an arbitral tribunal all difficulties which may arise between them during the existence of the present treaty, whatever may be the cause, the nature or the object of such difficulties.

2. The arbitral tribunal shall be composed of three persons. Each party shall designate one of the arbitrators. It shall choose him from among those who are neither citizens of the state nor inhabitants of its territory. The two arbitrators thus chosen shall themselves choose a third arbitrator; but if they should be unable to agree, the third arbitrator shall be named by a neutral government. This government shall be designated by the two arbitrators, or, if they cannot agree, by lot.

3. The arbitral tribunal, when called together by the third arbitrator, shall draw up a form of agreement which shall determine the object of the litigation, the composition of the tribunal and the duration of its powers. The agreement shall be signed by the representatives of the parties and by the arbitrators.

4. The arbitrators shall determine their own procedure. In order to secure a just result, they shall make use of all the means which they may deem necessary, the contracting parties engaging to place them at their disposal. Their judgment shall become executory one month after its communication.

5. The contracting parties bind themselves to observe and loyally to carry out the arbitral sentence.

6. The present treaty shall remain in force for a period of thirty years after the exchange of ratifications. If notice of its abrogation is not given before the beginning of the thirtieth year, it shall remain in force for another period of thirty years, and so on.

PLAN OF A PERMANENT TRIBUNAL OF ARBITRATION, ADOPTED BY THE INTERNATIONAL AMERICAN CONFERENCE, APRIL 28, 1890.

ART. 1.—The republics of North, Central, and South America hereby adopt arbitration as a principle of American International Law for the settlement of the differences, disputes or controversies that may arise between two or more of them.

ART. 2.—Arbitration shall be obligatory in all controversies concerning diplomatic and consular privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction and enforcement of treaties.

ART. 3.—Arbitration shall be equally obligatory in all cases other than those mentioned in the foregoing article, whatever may be their origin, nature, or object, with the single exception mentioned in the next following article.

ART. 4.—The sole questions excepted from the provisions of the preceding articles, are those which, in the judgment of any one of the nations involved in the controversy, may imperil its independence. In which case for such nation arbitration shall be optional; but it shall be obligatory upon the adversary power.

ART. 5.—All controversies or differences, whether pending or hereafter arising, shall be submitted to arbitration, even though they may have originated in occurrences antedating the present treaty.

ART. 6.—No question shall be revived by virtue of this treaty, concerning which a definite agreement shall already have been reached. In such cases, arbitration shall be resorted to only for the settlement of questions concerning the validity, interpretation or enforcement of such agreements.

ART. 7.—The choice of arbitrators shall not be limited or confined to American states. Any government may serve in the capacity of arbitrator, which maintains friendly relations with the nation opposed to the one selecting it. The office of arbitrator may also be entrusted to tribunals of justice, to scientific bodies,

PROJET DE TRAITÉ D'ARBITRAGE ENTRE LES ÉTATS D'AMÉRIQUE

SIGNÉ À WASHINGTON LE 28 AVRIL 1890.

ART. 1.—Les Républiques de l'Amérique du Nord, du Centre et de l'Amérique du Sud adoptent, par ces présents, l'arbitrage comme un principe de la loi internationale américaine pour l'arrangement des différends, des disputes ou des controverses qui peuvent s'élever entre deux ou plusieurs d'entre elles.

ART. 2.—L'arbitrage sera obligatoire dans toutes les controverses relatives aux privilèges diplomatiques ou consulaires, aux frontières, territoires, indemnités, au droit de navigation et à la validité, à l'interprétation et à la violation des traités.

ART. 3.—L'arbitrage sera également obligatoire dans tous les autres cas que ceux mentionnés dans le précédent article, quelle que puisse être leur origine, leur nature ou leur objet avec la seule exception mentionnée dans l'article suivant.

ART. 4.—Le seul cas excepté des clauses des articles précédents est celui qui, dans le jugement d'une des nations enveloppées dans la controverse, peut mettre en péril son indépendance. Dans ce cas, pour cette nation, l'arbitrage sera facultatif, mais il sera obligatoire pour la puissance adverse.

ART. 5.—Toutes les controverses, tous les différends pendant actuellement ou qui s'élèveront dans la suite, seront soumis à l'arbitrage, même s'ils provenaient d'occurrences antérieures au présent traité.

ART. 6.—En vertu de ce traité, aucune question qui aura été déjà réglée définitivement ne pourra être ravivée. Dans un tel cas, on n'aurait recours à l'arbitrage que pour l'arrangement des questions relatives à la validité, à l'interprétation ou à la violation des engagements.

ART. 7.—Le choix des arbitres ne sera pas limité ou confiné aux Etats américains. Tout gouvernement peut servir en qualité d'arbitre s'il entretient d'amicales relations avec la nation adverse de celle qui l'a choisi. L'office d'arbitre peut aussi être confié à des tribunaux de justice, à des corps scientifiques, à des officiers

to public officials, or to private individuals, whether citizens or not of the states selecting them.

ART. 8.—The Court of Arbitration may consist of one or more persons. If of one person, he shall be selected jointly by the nations concerned. If of several persons, their selection may be jointly made by the nations concerned. Should no choice be agreed upon, each nation showing a distinct interest in the question at issue shall have the right to appoint one arbitrator on its own behalf.

ART. 9.—Whenever the Court shall consist of an even number of arbitrators, the nations concerned shall appoint an umpire, who shall decide all questions upon which the arbitrators may disagree. If the nations interested fail to agree in the selection of an umpire, such umpire shall be selected by the arbitrators already appointed.

ART. 10.—The appointment of an umpire, and his acceptance, shall take place before the arbitrators enter upon the hearing of the questions in dispute.

ART. 11.—The umpire shall not act as a member of the Court, but his duties and powers shall be limited to the decision of questions, whether principal or incidental, upon which the arbitrators shall be unable to agree.

ART. 12.—Should an arbitrator or an umpire be prevented from serving by reason of death, resignation, or other cause, such arbitrator or umpire shall be replaced by a substitute to be selected in the same manner in which the original arbitrator or umpire shall have been chosen.

ART. 13.—The Court shall hold its sessions at such place as the parties in interest may agree upon, and in case of disagreement or failure to name a place the Court itself may determine the location.

ART. 14.—When the Court shall consist of several arbitrators, a majority of the whole number may act, notwithstanding the absence or withdrawal of the minority. In such case the majority shall continue in the performance of their duties, until they shall

publics ou à de simples particuliers, citoyens ou non des Etats les choisissant.

ART. 8.—La Cour d'arbitrage peut consister en une seule ou plusieurs personnes. Si elle se compose d'une personne, elle sera choisie conjointement par les nations intéressées. Si elle se compose de plusieurs personnes, leur choix doit être fait conjointement par les nations intéressées. Si on ne pouvait tomber d'accord pour aucun choix, chaque nation ayant un intérêt distinct dans le résultat de la question, aura le droit de désigner un arbitre pour sa propre défense.

ART. 9.—Lorsque la Cour consistera en un nombre égal d'arbitres, les nations intéressées désigneront un tiers arbitre qui décidera toutes les questions sur lesquelles les arbitres ne seraient pas d'accord. Si les nations intéressées ne tombent pas d'accord pour le choix d'un tiers-arbitre, ce tiers-arbitre sera choisi par les arbitres déjà désignés.

ART. 10.—Le choix du tiers-arbitre et son acceptation devront avoir lieu avant que les arbitres n'entrent en audience sur les questions de la dispute.

ART. 11.—Le tiers-arbitre n'agira pas comme membre de la Cour; mais ses devoirs et ses pouvoirs seront limités à la décision des questions, soit principales, soit secondaires, sur lesquelles les arbitres ne pourront tomber d'accord.

ART. 12.—Si un arbitre ou un tiers-arbitre était empêché de remplir ses fonctions par suite de décès, de résiliation ou pour toute autre cause, cet arbitre ou tiers-arbitre sera remplacé par un substitut qui devra être choisi de la même manière que l'aurait été le premier arbitre ou tiers-arbitre.

ART. 13.—La Cour tiendra des sessions en tel lieu que les nations intéressées s'accorderont à désigner, et, dans le cas de désaccord, ou si elles manquaient de désigner le lieu, la Cour elle-même pourra déterminer la localité.

ART. 14.—Lorsque la Cour consistera en plusieurs arbitres, une majorité de tous les membres pourra agir malgré l'absence ou le départ de la minorité. Dans un tel cas, la majorité continuera à remplir ses devoirs jusqu'à ce qu'elle soit parvenue à une déter-

have reached a final determination of the questions submitted for their consideration.

ART. 15.—The decision of a majority of the whole number of arbitrators shall be final both on the main and incidental issues, unless in the agreement to arbitrate it shall have been expressly provided that unanimity is essential.

ART. 16.—The general expenses of arbitration proceedings shall be paid in equal proportions by the governments that are parties thereto; but expenses incurred by either party in the preparation and prosecution of its case shall be defrayed by it individually.

ART. 17.—Whenever disputes arise, the nations involved shall appoint courts of arbitration in accordance with the provisions of the preceding articles. Only by the mutual and free consent of all such nations may those provisions be disregarded, and courts of arbitration appointed under different arrangements.

ART. 18.—This treaty shall remain in force for twenty years from the date of the exchange of ratifications. After the expiration of that period, it shall continue in operation until one of the contracting parties shall have notified all the others of its desire to terminate it. In the event of such notice, the treaty shall continue obligatory upon the party giving it for one year thereafter, but the withdrawal of one or more nations shall not invalidate the treaty with respect to the other nations concerned.

ART. 19.—This treaty shall be ratified by all the nations approving it according to their respective constitutional methods; and the ratifications shall be exchanged in the city of Washington on or before the 1st day of May, A.D. 1891. Any other nation may accept this treaty and become a party thereto by signing a copy thereof and depositing the same with the Government of the United States; whereupon the said Government shall communicate this fact to the other contracting parties.

mination finale dans toutes les questions soumises à l'examen des arbitres.

ART. 15.—La décision de la majorité des arbitres sera définitive aussi bien sur les questions principales que sur les questions secondaires, à moins que, dans les conditions de l'arbitrage, on ait expressément déterminé que l'unanimité serait indispensable.

ART. 16.—Les dépenses générales du procédé d'arbitrage seront payées en proportions égales par les gouvernements qui sont parties intéressées; mais les dépenses faites par chacune des parties pour la préparation et la poursuite de sa défense seront payées par chacune d'entre elles individuellement.

ART. 17.—Lorsque des disputes s'élèveront, les nations intéressées désigneront les Cours d'arbitrage d'après les clauses des précédents articles. Seulement, dans le cas où ces nations y consentiraient mutuellement et librement, ces clauses pourraient être mises de côté, et les Cours d'arbitrage seraient désignées d'après d'autres arrangements.

ART. 18.—Ce traité restera en vigueur pendant vingt ans à partir du jour où il sera ratifié. Après l'expiration de cette période, il continuera à être valable jusqu'à ce qu'une des parties contractantes notifie à toutes les autres un désir d'y mettre fin. Dans le cas de cette notification, le traité continuera à être obligatoire pendant un an pour la partie l'abandonnant; mais l'action d'une ou de plusieurs nations renonçant à ce traité ne l'invalidera pas pour les autres nations en faisant partie.

ART. 19.—Ce traité sera ratifié par toutes les nations l'approuvant, chacune selon sa méthode constitutionnelle et les ratifications seront échangées dans la ville de Washington le premier jour de mai A.D. 1891, ou avant si c'est possible. Toute autre nation peut accepter ce traité et devenir une partie contractante, en signant une copie de traité et en la déposant entre les mains du Gouvernement des Etats-Unis, sur quoi ledit Gouvernement communiquera le fait aux autres parties contractantes. En foi de quoi, les plénipotentiaires soussignés ont apposé leur signature et leur sceau.

NON-RATIFICATION OF THE TREATY.

The Treaty was signed by the Representatives of eleven States, as follows: Bolivia, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Salvador, the United States of America, the United States of Brazil, the United States of Venezuela, and Uruguay.

It was provided by Article XIX that "this Treaty shall be ratified by all the nations approving it, according to their respective constitutional methods; and the ratifications shall be exchanged, in the City of Washington, on or before the first day of May, A.D. 1891."

The Treaty, however, *lapsed, through the failure of all its signatories to exchange ratifications within the prescribed time; the United States being one of the signatories who did not sign the Treaty.*

An attempt has since been made to revive the Treaty. A form of extension was agreed upon and submitted to all the Signatory Powers, October 29th, 1891. The following Governments signified their acceptance of the proposal to revive the lapsed Treaty, viz., Ecuador, Guatemala, Honduras, Venezuela, Nicaragua, Salvador, and Bolivia.

The matter never progressed beyond this latter stage, and so the Treaty never became operative between the States concerned.

NON-RATIFICATION DU TRAITÉ.

Le traité était signé par les représentants de onze États, c'est à dire: Bolivie, l'Equateur, Guatemala, Haïti, Honduras, Nicaragua, Salvador, les États-Unis d'Amérique, les États-Unis de Brésil, les Etats-Unis de Venezuela, et Uruguay.

Il était pourvu dans l'Article XIX, que: "Ce traité sera ratifié par toutes les nations l'approuvant, chacune selon sa méthode constitutionelle; et les ratifications seront échangées dans la ville de Washington le premier jour de mai A.D. 1891, ou avant si c'est possible."

Cependant ce Traité *faillit, car tous les signataires, les Etats-Unis mêmes, manquèrent d'échanger les ratifications dans le temps prescrit.*

On a tenté depuis de renouveler le Traité. On a convenu sur une forme d'extension, qui fut soumise à toutes les Puissances signataires, 29 Octobre 1891. Les gouvernements ci-dessous acceptaient la proposition, savoir: l'Equateur, Guatemala, Honduras, Venezuela, Nicaragua, Salvador et Bolivie.

La chose ne s'avança plus, et ainsi le Traité n'est jamais devenu efficace entre les Etats.

NOTES ON A PERMANENT INTERNATIONAL TRIBUNAL OF ARBITRATION.

By Sir Edmund Hornby.

1. By appointing its members for a sufficiently long term—*i.e.*, ten years—absolving them from allegiance to any State whilst in office, rendering them capable of re-election (providing them with salaries and retiring pensions sufficient to place them for life beyond the necessity of truckling to Governments), and assuring them a social rank sufficient to satisfy the highest ambition (whilst denying them the the power to accept during life any position, honour, or reward), not only will the services of men of the highest educational attainments be secured, but their ambition and talents will be devoted to rendering the tribunal the object of universal confidence and respect.

2. By confiding to them the elaboration of a system of international jurisprudence they will be induced to devote themselves to perfecting it, not only by research and study, but by care in administering and applying it in the special cases submitted to their decision, upon principles which will secure universal acceptance.

3. Although nominated by Governments, the Senators or Judges should in no sense be regarded as the representatives or mouthpieces of Governments; and, having nothing to hope for, and nothing to fear from the authority nominating them, they will alone look for reward in the confidence and esteem their devotion to the interests of humanity in general—as distinguished from more isolated national interests—will earn for them.

4. The tribunal must itself establish a procedure, having for its sole object the presentment and development of distinct and clear issues upon which its judgment is sought. It must have powers to indicate and procure all such evidence as it considers necessary to enable it fully to elucidate the facts presented. It must safe-

LE TRIBUNAL INTERNATIONAL

PROPOSITION DE SIR EDMOND HORNBY

(*Traduction libre.*)

1. En donnant aux fonctions de ses membres une durée suffisante et en les dégageant de toute attache avec un État quelconque pendant qu'ils sont en office, en les soumettant à réélection, en leur assurant des salaires et des pensions libérales, et en leur donnant un rang qui satisfasse à toute légitime ambition, on assurerait au Tribunal la confiance et le respect universels.

2. Chargés d'élaborer une jurisprudence internationale, ils se dévoueraient à son perfectionnement, non seulement par des recherches et des études, mais encore par l'application intelligente des principes de cette jurisprudence aux causes qu'ils ont à juger.

3. Bien que nommés par les gouvernements, les sénateurs ou juges ne pourront pas être considérés comme leurs représentants ou leurs instruments, et comme ils n'auront rien à espérer ni à craindre d'eux, ils ne s'occuperont que des intérêts généraux et humanitaires qui leur sont confiés.

4. La Cour internationale d'arbitrage établira elle-même sa procédure, en ayant pour unique préoccupation de la rendre claire et pratique. Elle indiquera les moyens de preuve qui lui paraîtront nécessaires pour élucider les allégués des parties. Elle empêchera

guard all possibility of masterful will amongst its members prejudicially or mischievously influencing the corporate mind of the tribunal, by a rigid system specially framed to secure the fullest and freest expression of individual thought. Under no circumstances must the judgment be other than that of the tribunal—be it unanimous or only that of a majority—provision being made for recording the separate or dissenting judgments as interesting memorials of individual opinions, to be published, after a certain lapse of time, when deemed expedient.

5. The *detailed* reasons of an award or judgment should not be given until it has been complied with. With compliance or non-compliance, the tribunal, however, should have nothing to do. It is *functus officio quoad* the particular case submitted, the moment the award for judgment is communicated, under the seal of the court, by its chief Secretary.

6. The enforcement of an award or judgment is matter of consideration alone for the *Concurring Parties* to the establishment of the tribunal. It is open to them individually or collectively to remonstrate on non-compliance; to compel performance by withdrawal or suspension of diplomatic relations (Consular or trade relations remaining unaffected), by the infliction of a pecuniary penalty, by seizure and occupation of territory, and even in extreme cases, by war.

7. Under no circumstances must any member of the tribunal enter into communication, direct or indirect, with the Sovereign, Government, or the Press of any nation; the tribunal, in its corporate character and through its chief Secretary, alone being able to enter into such communications.

8. No member should reside in the country by the Government of which he is nominated. For nine months of each year every member must reside within the college grounds, or within twenty miles thereof.

9 No member of the tribunal, by virtue of his position, should

toute influence prédominante sur ses membres et assurera la libre expression des opinions individuelles. En aucun cas le jugement ne sera autre que celui de l'unanimité ou de la majorité de la Cour, réserve faite de la mention des votes de minorité, qui pourront être publiés après un certain laps de temps si on le juge à propos.

5. Les considérants d'un jugement ne seront pas donnés avant que le jugement lui-même ait été exécuté. Les membres de la Cour n'auront pas à s'occuper de cette exécution. Ses fonctions cesseront dès que la notification du jugement aura été faite par le Chef-secrétaire sous le sceau du tribunal.

6. L'exécution d'un jugement sera l'affaire des parties qui ont concouru à la constitution du tribunal. C'est à elles qu'il incombe de réclamer individuellement ou collectivement contre un refus de se soumettre au jugement et d'en exiger l'exécution, par la rupture, provisoire ou définitive, des relations diplomatiques, par une amende pécuniaire, par la saisie et l'occupation d'un territoire, et, dans des cas extrêmes, par la force armée.

7. En aucun cas un membre du tribunal ne pourra entrer directement ou indirectement en communication avec le souverain, le gouvernement ou la presse d'un pays ; la Cour seule comme collectivité et par son Chef-secrétaire pourra entretenir des relations de ce genre.

8. Aucun membre de la Cour ne pourra résider dans le pays dont le gouvernement l'a nommé. Durant 9 mois de l'année tout membre de la Cour sera tenu de résider au siége du tribunal où à 20 milles de ce siége au maximum.

9. En vertu de sa position aucun membre de la Cour ne pourra

be entitled to any official title beyond that of "Senator," but he should be awarded precedence, in every nation, over all laymen not being sovereign rulers.

10. The "Chief Secretary" of the tribunal should rank on a footing of equality with the principal Secretaries of State of all nations.

11. The site of the college grounds should be declared extra-territorial and neutral, and all persons residing, employed or found therein, should be within the sole jurisdiction of the Tribunal, exercisable, at the discretion of the same, by itself or, at its request, by the judicial authorities of the Government of the State within the territorial boundaries of which the college is situated.

12. To the Government of such State should be entrusted the collection and custody of the funds. Each Concurring State should—in certain fixed proportions to be determined on—contribute towards the maintenance of the Tribunal and college, the payment of salaries and other expenses, and such Government should expend the same in accordance with the requisitions of the Chief Secretary, countersigned by the President of the Tribunal and two members thereof.

13. The Tribunal should consist of not less than thirteen Senators (not necessarily jurists by profession, but statesmen and diplomatists, or men who have filled judicial offices), to be nominated as hereinafter mentioned, and at the commencement of each year such members should elect by ballot one of their number to act as president.

14. There should be appointed a Chief Secretary of the Tribunal, who alone should be in official communication with the Concurring Powers. The duties of this officer should be, amongst others, to regulate the sittings of the Tribunal, to receive all documents, and generally act as keeper of the archives.

15. In addition, there should be a Bursar, assistant secretaries,

accepter un autre titre officiel que celui de "Sénateur". Il sera accordé en chaque pays la plus haute position après celui du souverain d'un pays.

10. Le Chef-secrétaire sera mis sur le même rang que les principaux secrétaires d'Etat de toutes les nations.

11. Le siège de la Cour sera déclaré ex-territorial et neutre, les employés du tribunal étant justiciables de lui-même, ou, sur sa demande, placés sous la juridiction de l'Etat dans les limites territoriales duquel le tribunal a son siège.

12. Le Gouvernement de cet Etat aura à recueillir et à gérer le fonds du tribunal Chacun des Etats contractants contribuera, dans des proportions à déterminer, aux frais du tribunal, au paiement des honoraires et aux autres dépenses. Le gouvernement chargé de la gérance du fonds opérera les paiements sur mandats du Chef-secrétaire visés par le Président et deux membres de la Cour.

13. Le tribunal se composera, en minimum, de treize sénateurs, qui ne seront pas nécessairement juristes de vocation, mais aussi hommes d'Etat et diplomates ou magistrats ayant rempli des fonctions judiciaires. Ces sénateurs seront nommés dans la forme prescrite ci-dessous. Chaque année ils éliront un d'entre eux comme président au scrutin secret.

14. Ils nommeront un Chef-secrétaire du tribunal, qui aura seul à entrer en relations officielles avec les Gouvernements contractants. Le Chef-secrétaire aura entre autres à convoquer les séances du tribunal, à recevoir toutes les pièces et à tenir en ordre les archives.

15. Il y aura aussi un caissier, des secrétaires adjoints, un biblio-

a librarian, and such clerks, interpreters, short-hand writers, printers, messengers, servants, etc., as shall be necessary.

16. All and every person employed should on appointment be sworn to keep secret all such information or knowledge as he may acquire by virtue of his office, under penalty of dismissal, forfeiture of pension, and incapability of holding any public appointment anywhere in the service of any one of the Concurring Powers.

17. Every Concurring Nation should be entitled to name one member of the Tribunal, such member not necessarily being a citizen of such nation.

18. In the event of a Concurring Nation not nominating a member, the Tribunal itself should, if the number of members be under thirteen, nominate and by ballot elect a member.

19. Every member of the Tribunal should on his acceptance, and previous to entering on the duties of his office, solemnly renounce and be absolved from allegiance to the country of his birth or adoption, or to the Sovereign of the same, and take an oath to perform his duties without fear, favour, or affection, and with perfect impartiality—undertaking to hold no communication with any Ruler or Government, and not to apply for or receive during life any rank, income, reward, decoration, or office from any Ruler or Government; and any member guilty of infraction of such undertaking should *ipso facto* cease to be a member, and should forfeit all right or title to any pension.

20. The first duty of the Tribunal should be to frame a Code of procedure, providing for the mode in which disputes and differences between nations should be submitted to it.

21. This Code should provide that, immediately on it being shown that any difference cannot be satisfactorily settled by ordinary diplomatic action, as evidenced by the proposal of one of the parties to refer the same to arbitration, the Tribunal be seized with the determination of the same.

thécaire et le nombre voulu d'interprètes, de calligraphes, de commis, de facteurs, etc.

16. Tout employé prêtera serment en entrant en fonctions, de garder le secret sur tout ce qu'il peut avoir appris dans l'exercice de sa charge, sous peine de perdre sa place et sa pension et d'être déclaré incapable de remplir aucun office au service d'un des gouvernements contractants.

17. Toute nation contractante a le droit de nommer un membre du tribunal, qui ne sera pas nécessairement citoyen de cette nation.

18. Si l'une des nations contractantes ne nomme pas un membre du tribunal et que le nombre des membres soit inférieur à treize, le tribunal lui-même fera cette nomination au scrutin secret.

19. En acceptant sa nomination et avant d'entrer en fonctions, tout membre du tribunal doit renoncer solennellement à tout engagement vis-à-vis de son pays d'origine ou d'adoption, ainsi que vis-à-vis de l'autorité souveraine de ce pays, et en être entièrement libéré ; il doit prêter serment de remplir son office sans crainte, sans favoritisme et avec une parfaite impartialité, en s'engageant à ne solliciter et à n'accepter pendant sa vie, aucun rang, aucun revenu, aucune récompense, aucune décoration et aucun office d'un prince ou d'un gouvernement, sous peine de perdre sa charge de membre du tribunal, ainsi que tout droit ou titre à une pension.

20. Le premier devoir du tribunal sera d'élaborer un code de procédure fixant la manière en laquelle les différends entre nations doivent lui être soumis.

21. Ce code stipulera qu'aussitôt qu'on verra qu'un différend ne peut pas être réglé d'une façon satisfaisante par la voie diplomatique et qu'une des parties recourra à l'arbitrage, le tribunal se considérera comme saisi du litige.

22. From that moment neither party to the difference should directly or indirectly do anything which could be interpreted as an attempt or indication of persistence in the conduct or acts which led to the difference.

23. If the nature of the difference is such that a *modus vivendi* pending the settlement is necessary and cannot be arrived at by mutual agreement, the Tribunal should be requested to arrange the same, each of the two disputant nations sending in writing, within a time to be limited, its view of what the character of the *modus vivendi* should be.

24. On receipt of the same the Tribunal should nominate a Committee of itself, consisting of three members, *not* being of the nationality of the disputants, to arrange the terms of the *modus*, and should, if the same be not accepted, sit as a Court of Appeal from the decision of such Committee, and finally determine the same.

25. The Tribunal should appoint a time within which the disputant powers should prepare and send in their respective cases and counter-cases.

26. On receipt of such cases the Tribunal should consider the same, and therefrom frame distinct issues of facts and law for decision.

27. Such issues should then be communicated to the disputants for their observations and assent. If they agree, then a day should be appointed, when the Tribunal will hear the case. If the parties do not agree on the issues, the hearing must be deferred until, with the assistance of the Tribunal, they are framed to meet the views of the litigants.

28. The disputant Powers should, if either think fit, nominate agents to represent them, as also counsel to argue the respective cases on the hearing.

29. All documents, including cases and counter-cases, may be

22. A partir de ce moment, chacune des parties en cause s'abstiendra de tout acte qui, directement ou indirectement, pourrait être interprété comme une agression de sa part ou comme indiquant qu'elle persiste dans la conduite ou les faits qui ont provoqué le litige.

23. Si le différend est de telle nature qu'un *modus vivendi* en attendant sa solution soit nécessaire et ne puisse être fixé à l'amiable, le tribunal sera invité à le déterminer, après que chacune des nations litigantes lui aura fait connaître par écrit dans un délai limité, sa manière de voir sur le caractère que doit revêtir le *modus vivendi*.

24. A la réception de ces pièces, le tribunal nommera une commission de trois membres, dont aucun ne peut être ressortissant d'un des Etats en cause, et la chargera d'arranger les termes du *modus vivendi ;* si ce dernier n'est pas accepté, le tribunal siégera comme cour d'appel et prononcera en dernier ressort.

25. Le tribunal fixera aux Etats litigants un terme avant l'expiration duquel ils devront préparer et envoyer leurs mémoires pour et contre.

26. Après réception de ces mémoires, le tribunal les examinera et rédigera un exposé des questions de fait et de droit, soulevées dans l'espèce.

27. Cet exposé sera soumis aux parties pour qu'elles l'acceptent ou fassent leurs observations. S'il est accepté, on fixera le jour où la cause sera appelée. S'il n'est pas accepté, la cause doit être ajournée jusqu'à ce que, avec le concours du tribunal, il soit rédigé en conformité des vues des parties en cause.

28. Les Etats litigants peuvent, s'ils le jugent à propos, désigner des agents pour les représenter et des avocats pour soutenir leur cause devant le tribunal.

29. Tous les documents, y compris les mémoires des deman-

in the respective languages of the disputants, but must be accompanied by verified translations in French, and all oral arguments must be in French.

30. The Tribunal should have full power to call for the production of any documents it may require, and for such other evidence as it may desire; and it should be empowered *proprio motu* to issue commissions for the purpose of obtaining evidence, appoint commissioners, and enable them to administer oaths; and to receive and consider the evidence thus obtained, if it thinks desirable, in private; the same being preserved, under the seal of the Court, in the archives thereof.

31. On the settlement of the issues, the Tribunal should possess the power to permit the intervention of third Powers on due and sufficient cause being shown that their interests are affected, or likely to be affected, by any decision the Tribunal may arrive at, and in its decisions on the main issue between the original parties to the dispute the Tribunal should be empowered to make such terms as regards such intervening parties as will safeguard their interests.

32. The mode in which the decisions or judgments of the Tribunal are to be given should be as follows:—

After consultation and discussion, each member of the Tribunal should draw up his judgment in the first instance in *draft*, and each judgment should be identified by a private mark, so that the author of the same should be unknown to his colleagues. Copies of each judgment, unmarked and unauthenticated, should be supplied by the chief Secretary to every member of the tribunal, each member thus having the opportunity of becoming acquainted with the views and opinions of his colleagues before the same are finally settled, without however knowing *whose* views and opinions they are, so that each Senator may have the opportunity of considering such views and opinions, of pointing out fallacies and errors, or correcting or modifying his own views. Then each

deurs et des défendeurs, peuvent être rédigés dans la langue des parties, mais ils doivent être accompagnés de traductions vidimées en langue française et tous les débats oraux doivent avoir lieu en français.

30. Le tribunal a le droit d'exiger la production des documents qu'il juge utiles et des autres moyens de preuves qu'il peut désirer; il peut nommer de son propre chef des commissions pour s'assurer de certains faits et nommer des commissaires ayant la faculté d'assermenter des témoins; et de recevoir et apprécier à huis clos les preuves ainsi obtenues. Les rapports de ces Commissaires sont conservés dans les archives sous le sceau de la Cour.

31. Dans ses exposés, le tribunal peut permettre l'intervention de tierces parties lorsqu'il est évident pour lui que leurs intérêts sont ou seront vraisemblablement mis en cause par le jugement qui sera rendu, et, dans la décision sur la partie essentielle du litige entre les litigants primitifs, il a le droit de faire des stipulations en vue de sauvegarder les intérêts des intervenants.

32. Les jugements seront rendus dans les formes suivantes:

Après la consultation et la discussion, chaque membre du tribunal opinera en première instance par écrit et sous pli cacheté portant un signe connu de lui seul, de telle sorte que ses collègues ne sachent pas quel a été son jugement. Le Chef-secrétaire remettra une copie de ces avis à chacun des membres du tribunal, de manière à ce qu'il apprenne à connaître l'opinion de ses collègues avant le vote définitif, sans toutefois savoir lequel d'entre eux a émis tel ou tel avis. De cette façon, chaque Sénateur peut apprécier ce qu'il y a de juste ou d'erroné dans les appréciations des autres membres de la Cour et a la possibilité de corriger ou de modifier sa propre opinion. Chaque membre du

member should draw up his *final* judgment, affixing thereto his private mark, and send the same in a sealed envelope to the chief Secretary.

33. The chief Secretary should then, after perusing the same, determine in whose favour the majority of the judgments is, and should draw up from the same minutes, and submit the same to the authors of the majority of the judgments, which minutes as finally settled, should constitute the judgment of the Tribunal.

34. Such judgment should then be officially delivered to the disputants, and within one month of such delivery to all the Concurring Nations. If the judgment be complied with, then the judgments, accompanied by a precis of the case and counter-case, should be communicated *in extenso*, so that every nation may know the views of the Tribunal on the law and the facts.

35. No appeal should lie from such judgment. All the judgments—as well those of the minority as those of the majority, together with the final judgment—should be made matter of record, and should be published, with the names of the respective authors, together with the precis of the case and counter-case, at the end of a term—say—of three years.

36. The Tribunal, besides hearing and deciding judicially matters in difference, should be also prepared at the instance of any two or more nations to express an extra-judicial opinion on any question of law or interpretation of treaties, with the object of preventing differences arising in the future.

37. It should also be ready, in view of Conferences or Congresses of Sovereigns and Statesmen, to suggest modifications and alterations with reference to international law on points of difference which remain unsettled—such as privateering, right of search, neutral rights, blockade, &c., &c.—and on which differences of opinion exist.

38. The Concurring Powers should also confer on the Tribunal in its character of a "College of International Law," a faculty to

tribunal émet ensuite par écrit son jugement *définitif*, en y apposant sa marque particulière et en l'envoyant sous pli cacheté au Chef-secrétaire.

33. Le Chef-secrétaire déterminera la majorité après avoir lu ces avis, au moyen desquels il rédigera le jugement, dont il soumettra le projet aux membres qui ont formé la majorité ; ce projet, après avoir été revisé et approuvé, constituera le jugement définitif du tribunal.

34. Ce jugement sera alors notifié aux parties litigantes, puis, dans le délai d'un mois, à tous les Etats contractants. Dès qu'il aura été accepté les avis des membres du tribunal seront portés in extenso à la connaissance des Etats avec un résumé de la demande et de la réplique, de manière à ce que chaque nation puisse se rendre compte de l'opinion du tribunal sur les questions de droit et de fait.

35. Le jugement rendu sera sans appel. Au bout d'un certain temps, de trois ans par exemple, les avis de tous les membres du tribunal, majorité et minorité, feront l'objet d'un rapport, qui sera publié avec les noms des opinants et avec le résumé de la demande et de la réplique.

36. Outre le devoir de trancher par voie juridique les litiges qui lui sont soumis, le tribunal aura celui d'exprimer, sur la demande de deux ou plusieurs nations, son opinion sur des questions de droit ou sur l'interprétation de traités, en vue de prévenir des litiges dans l'avenir.

37. Il devra aussi se préparer à faire des propositions aux conférences ou congrès de souverains et d'hommes d'Etat pour des modifications aux lois internationales sur des points qui n'ont pas encore été réglés, en matière de lettres de marque, de perquisitions, de droit des neutres, de blocus, etc, etc., et sur lesquels les opinions diffèrent.

38. Les Etats contractants donneront aussi au tribunal, en sa qualité de " Collège de droit international ", la faculté de conférer

grant the "degree" of "Doctor of International Law," which should only be conferable on students who had obtained the degree of Doctor of Laws, or its equivalent, in the national colleges of the several Concurring Countries, and this degree should rank as the highest degree in the faculties of law, and should entitle the holder thereof to precedence according to date in all courts.

39. Switzerland seems a central and accessible locality in which to locate the Tribunal or college. The building should be worthy of the object, and, since the Senators should be in residence at least nine months of the year, sufficiently spacious to accommodate them and the staff. The site and grounds should be extra-territorialised, the whole being placed under the guardianship of the Republic, the Cantonal Government being entrusted with the necessary funds for the purchase of the selected site, for the erection of the building, and for the disbursement of all the expenses of maintenance.

40. The first cost would hardly exceed a sum of one million sterling, whilst the annual expenditure may be put at about £200,000 a year.

This first cost and annual expenditure might be defrayed by the concurring Powers in proportion and according to their rank as first, second, or third class Powers.

Thus, if for instance, six First-class Powers contributed to the Capital Fund £100,000 each, eight Second-class Powers £50,000 each, and eight or ten Third-class Powers £25,000 each, a sum of £1,200,000 would be provided, sufficient to purchase the site and defray the cost of buildings, &c., &c.

If then these Powers—which may be called the "Concurring Powers"—agreed to contribute each of them annually—the First-class £20,000, the Second-class £10,000, and the Third-class £5,000, an income of £240,000 would be raised, sufficient to provide amply for salaries and all other expenses, as well as to form the nucleus of a Pension Fund.

le grade de " Docteur en droit international ", exclusivement à des étudiants qui ont obtenu le grade de docteur en droit ou son équivalent dans les Universités des dits Etats ; ce grade sera considéré comme supérieur à tous les autres dans les facultés de droit et donnera à celui qui le porte la préséance dans toutes les Cours de justice.

39. La Suisse semble être un point central et accessible pour servir de siège au tribunal. L'édifice doit être digne de sa destination et suffisamment spacieux pour les juges, qui doivent y résider au moins neuf mois de l'année, et pour le personnel. Il doit jouir de l'exterritorialité et être placé sous la garde de la république. Le gouvernement cantonal doit être pourvu des fonds nécessaires pour l'achat du terrain, pour la construction de l'édifice et pour toutes les dépenses d'entretien.

40. Les premiers frais excéderaient à peine un million de livres sterling et les dépenses d'entretien peuvent être évaluées à 200,000 livres par année.

Les premiers fonds doivent être fournis par les Etats contractants en proportion de leur rang comme puissances de premier, de second ou de troisième ordre.

Si, par exemple, six puissances de premier ordre contribuent pour 100,000 livres chacune, huit de second ordre pour 50,000 livres et huit ou dix de troisième ordre pour 25,000 livres, on réunira ainsi une somme de 1,200,000 livres, amplement suffisante pour couvrir les frais d'achat du terrain, de construction de l'édifice, etc., etc.

Si ensuite ces puissances, que nous appellerons " puissances contractantes ", consentent à participer annuellement aux frais par 20,000 livres pour la première classe, 10,000 livres pour la seconde et 5,000 livres pour la troisième, cela suffira pleinement pour les salaires et toutes les autres dépenses, de même que pour former le noyau d'un fonds de pensions.

PROPOSED RULES FOR THE ORGANISATION OF AN INTERNATIONAL TRIBUNAL OF ARBITRATION.

Submitted by Messrs. *Wm. Allen Butler*, *Dorman B. Eaton*, and *Cephas Brainerd*, to the Universal Peace Congress at Chicago, in 1893.

In order to maintain peace between the high contracting parties, they agree as follows:

FIRST.—If any cause of complaint arise between any of the nations parties hereto, the one aggrieved shall give formal notice thereof to the other, specifying in detail the cause of complaint and the redress which it seeks.

SECOND.—The nation which receives from another notice of any cause of complaint shall, within one month thereafter, give a full and explicit answer thereto.

THIRD.—If the nation complaining and the nation complained of do not otherwise, within two months after such answer, agree between themselves, they shall each appoint three members of a Joint Commission, who shall confer together, discuss the differences, endeavour to reconcile them, and within one month after their appointment shall report the result to the nations appointing them respectively.

FOURTH.—If the Joint Commissioners fail to agree, or the nations appointing them fail to ratify their acts, those nations shall, within twelve months after the appointment of the Joint Commission, give notice of such failure to the other parties to the treaty, and the cause of complaint shall be referred to the Tribunal of Arbitration, instituted as follows:

1. Each signatory nation shall, within one month after the ratification of this treaty, transmit to the other signatory nations the names of four persons as fit to serve on such tribunal.

2. From the list of such persons, the nations at any time in controversy shall alternately, and as speedily as possible, select one after another until seven are selected, which seven shall constitute

PLAN POUR L'ORGANISATION D'UN TRIBUNAL INTERNATIONAL D'ARBITAGE.

(Projet soumis au V^e^ Congrès universel de la Paix, à Chicago, par MM. *William Allen Butler*, *Dorman B. Eaton*, *et Céphas Brainerd*, tous trois jurisconsultes à New-York.

En vue de maintenir la paix entre elles, les hautes parties contractantes conviennent de ce qui suit :

1° Si un litige survient entre des Etats qui sont parties dans le présent contrat, celui qui croit avoir à se plaindre en informe l'autre en spécifiant ses griefs et les mesures qu'il réclame.

2° La nation qui reçoit d'une autre une notification de ce genre doit y répondre d'une manière complète et explicite dans le délai d'un mois.

3° Si la nation plaignante et l'autre n'en disposent pas autrement et que la réponse n'ait pas mis fin au litige, chacune d'elles nommera trois membres d'une Commission qui discutera les questions litigieuses et cherchera à concilier les parties. Chacune de ces délibérations informera ses mandants du résultat des délibérations.

4° Si les commissaires ne peuvent se mettre d'accord ou que leurs Etats n'acceptent pas leurs propositions, ces Etats en informent dans le délai de douze mois les autres signataires du présent traité, et le litige est alors renvoyé au Tribunal d'arbitrage, institué comme suit :

a. Chacune des nations signataires doit, dans le délai d'un mois, après la signature du présent traité, transmettre aux autres nations signataires les noms de quatre personnes capables de siéger dans le tribunal.

b. Sur la liste de ces personnes, les nations litigantes ont à choisir alternativement et aussi vite que possible, l'une après l'autre celles qui leur agréent, jusqu'à ce qu'il en ait été désigné sept, qui constituent le tribunal appelé à prononcer sur le litige.

the tribunal for the hearing and decision of that controversy. Notice of each selection shall immediately be given to the permanent secretary, who shall at once notify the person so selected.

3. The tribunal thus constituted shall, by writing signed by the members or a majority of them, appoint a time and place of meeting, and give notice thereof through the permanent secretary to the parties in controversy; and at such time and place, or at other times and places to which an adjournment may be had, it shall hear the parties and decide between them, and such decision shall be final and conclusive.

4. If either of these parties fail to signify its selection of names from the lists within one month after a request from the other to do so, the other may select for it; and if any of the persons selected to constitute the tribunal shall die or fail from any cause to serve, the vacancy shall be filled by the nation which originally named the person whose place is to be filled.

FIFTH.—Each of the parties to this treaty binds itself to unite, as herein prescribed, in forming a tribunal of arbitration for all cases in controversy between any of them not adjusted by a Joint Commission, as hereinbefore provided, except that such arbitration shall not extend to any question respecting the independence or sovereignty of a nation, or its equality with other nations, or its form of government or its internal affairs.

1. The Tribunal of Arbitration shall consist of seven members, and shall be constituted in a manner provided in the foregoing fourth rule; but it may, if the nations in controversy so agree, consist of less than seven persons, and in that case the members of the tribunal shall be selected jointly by them from the whole list of persons named by the signatory nations. Each nation claiming a distinct interest in the question at issue shall have the right to appoint one additional arbitrator on its own behalf.

2. When the tribunal shall consist of several arbitrators a majority of the whole number may act, notwithstanding the absence

Chaque choix sera immédiatement porté à la connaissance du Secrétaire permanent, qui en avisera chaque fois la personne ainsi élue.

c. Le Tribunal ainsi constitué désigne par écrit et avec la signature de ses membres ou de la majorité de ceux-ci, la date et le lieu de sa réunion et en donne connaisance aux parties en cause par l'intermédiaire du Secrétaire permanent. A cette date et à ce lieu ou à une autre date et à un autre lieu s'il y a ajournement, il entend les parties et prononce entre elles. Son jugement est définitif et sans appel.

d. Si l'une des parties n'a pas indiqué les choix qu'elle a faits sur la liste dans le délai d'un mois après en avoir été requise par l'autre partie, c'est celle-ci qui fera les choix pour elle, et si l'une des personnes choisies pour constituer le tribunal était empêchée par suite de décès ou pour toute autre cause, la lacune serait comblée par la nation qui avait désigné primitivement la personne à remplacer.

5° Chacune des parties signataires du présent traité s'engage à contribuer, comme il est dit plus haut, à la formation d'un tribunal d'arbitrage pour tous les différends qui viendraient à surgir entre elles et n'auraient pu être réglés par la Commission de conciliation prévue ci-dessus, sauf que l'arbitrage ne peut s'étendre à des questions touchant l'indépendance ou la souveraineté d'une nation, son égalité avec d'autres nations, la forme de son gouvernement ou ses affaires intérieures.

a. Le tribunal d'arbitrage se composera de sept membres et sera constitué de la manière prévue dans les quatre articles qui précèdent; mais il peut se composer de moins de sept personnes, si cela convient aux parties, et dans ce cas les membres du tribunal seront choisis conjointement sur toute la liste des noms désignés par les nations signataires. Toute nation qui déclare avoir un intérêt spécial dans la question litigieuse a le droit d'adjoindre un arbitre au tribunal pour sa propre défense.

b. Quand le tribunal se compose de plusieurs arbitres, la majorité de ses membres délibère valablement nonobstant l'absence

or withdrawal of the minority. In such case the majority shall continue in the performance of their duties until they shall have reached a final determination of the question submitted for their consideration.

3. The decision of a majority of the whole number of arbitrators shall be final, both on the main and incidental issues, unless it shall have been expressly provided by the nations in controversy that unanimity is essential.

4. The expenses of an arbitration proceeding, including the compensation of the arbitrators, shall be paid in equal proportions by the nations that are parties thereto, except as provided in subdivision 6 of this article; but expenses of either party in the preparation and prosecution of its case shall be defrayed by it individually.

5. Only by the mutual consent of all the signatory nations may the provisions of these articles be disregarded and courts of arbitration appointed under different arrangements.

6. A permanent secretary shall be appointed by agreement between the signatory nations, whose office shall be at Berne, Switzerland, where the records of the tribunal shall be preserved. The permanent secretary shall have power to appoint two assistant secretaries, and such other assistants as may be required for the performance of the duties incident to the proceedings of the tribunal.

The salary of the permanent secretary, assistant secretaries and other persons connected with his office shall be paid by the signatory nations, out of a fund to be provided for that purpose, to which each of such nations shall contribute in a proportion corresponding to the population of the several nations.

7. Upon the reference of any controversy to the tribunal and after the selection of the arbitrators to constitute the tribunal for the hearing of such controversy, it shall fix the time within which the case, the counter-case, reply, evidence and arguments of the

ou la retraite de la minorité. Dans un cas de ce genre, la majorité doit suivre à l'exécution du mandat confié au tribunal jusqu'à ce qu'une détermination définitive ait été prise sur les questions soumises à l'arbitrage.

c. La décision de la majorité des arbitres est valable, soit sur la question principale, soit sur les questions incidentes, à moins que les nations en cause n'aient expressément exigé l'unanimité.

d. Les frais d'un arbitrage, y compris les honoraires des arbitres, sont mis par parts égales à la charge des nations en cause, sauf ce qui est prévu au chiffre 6 du présent article ; les dépenses faites par chacune des parties pour la préparation et la poursuite de sa cause sont exclusivement supportées par elle.

e. Il ne peut être dérogé aux dispositions des articles ci-dessus et les tribunaux d'arbitrage ne peuvent être constitués sur d'autres bases qu'avec l'assentiment de toutes les nations signataires.

f. Un secrétaire permanent sera nommé d'un commun accord entre les nations signataires. Son siège sera à Berne (Suisse), où les archives du Tribunal seront conservées. Le Secrétaire permanent peut s'adjoindre deux secrétaires et autant d'autres auxiliaires que l'exigeront les travaux se rapportant à la procédure devant le Tribunal.

Les honoraires du secrétaire permanent, de ses secrétaires auxiliaires et des autres employés de son bureau sont payés par les nations signataires ou au moyen d'un fonds à prévoir à cet effet et à la formation duquel chacune des nations contribuera au prorata de sa population.

g. Quand une cause est portée devant l'arbitrage et après le choix des arbitres qui doivent constituer le tribunal appelé à prononcer sur le litige, les délais pour la demande, la défense, la réplique et les autres moyens à présenter par les parties seront

respective parties shall be submitted to it, and shall make rules regulating the proceedings under which that controversy shall be heard.

8. The tribunal as first constituted, for the determination of a controversy, may establish general rules for practice and proceeding before all tribunals assembled for the hearing of any controversy submitted under the provisions of these articles, which rules may from time to time be amended or changed by any subsequent tribunal; and all such rules shall immediately, upon their adoption, be notified to the various signatory powers.

SIXTH.—If any of the parties to this treaty shall begin hostilities against another party without having first exhausted the means of reconciliation herein provided for, or shall fail to comply with the decisions of the Tribunal of Arbitration, within one month after receiving notice of the decision, the chief executive of every other nation, party hereto, shall issue a proclamation declaring (such) hostilities or failure, to be an infraction of this treaty, and at the end of thirty days thereafter, the ports of the nations from which the proclamation proceeds shall be closed against the offending or defaulting nation, except upon condition that all vessels and goods coming from or belonging to any of its citizens shall, as a condition, be subjected to double the duties to which they would otherwise have been subjected. But the exclusion may be at any time revoked by another proclamation of like authority, issued at the request of the offending nation declaring its readiness to comply with this treaty in its letter and spirit.

SEVENTH.—A conference of representatives of the nations, parties to this treaty, shall be held every alternate year, beginning on the first of January, at the capital of each in rotation, and in the order of the signatures to this treaty, for the purpose of discussing the provisions of the treaty, and desired amendments thereof, averting war, facilitating intercourse, and preserving peace.

fixés et des règles seront établies pour déterminer la procédure à suivre.

h. Le Tribunal constitué le premier pour juger un litige peut établir des règles générales de procédure pour tous les Tribunaux appelés à arbitrer des différends en conformité des dispositions ci-dessus. Ces règles peuvent être modifiées ou changées en tout temps par des tribunaux subséquents ; elles doivent être notifiées aux pouvoirs signataires aussitôt après leur adoption.

6° Si l'une des parties signataires du présent traité entamait des hostilités contre une autre partie avant d'avoir essayé des moyens de réconciliation prévus dans ce traité, ou si elle refuse de se soumettre aux décisions du Tribunal d'arbitrage dans le délai d'un mois après que ces décisions lui ont été notifiées, le pouvoir exécutif de chacune des autres nations en cause lancera une proclamation déclarant que les hostilités ou le refus constitue une infraction au traité, et à l'expiration du 30e jour après cette proclamation, les ports de la nation de laquelle provient la proclamation seront fermés à la nation agressive ou réfractaire, en ce sens que tous les vaisseaux et toutes les marchandises en provenance ou à destination des citoyens de cette dernière nation seront frappés d'un droit double de celui auquel ils auraient été soumis sans cela. Toutefois cette exclusion peut en tout temps être révoquée par une autre proclamation de la même autorité, faite à la requête de la nation agressive se déclarant prête à se soumettre au traité dans sa lettre et dans son esprit.

7° Une conférence de représentants des nations signataires du présent traité se tiendra tous les deux ans ; elle s'ouvrira le 1er janvier alternativement dans la capitale de chacune de ces nations en suivant l'ordre des signatures, en vue de discuter les mesures d application du traité et les amendements au traité qui peuvent être proposés, de prévenir les guerres, de faciliter les relations et de sauvegarder la paix.

RESOLUTION ADOPTED BY THE INTER-PARLIAMENTARY CONFERENCE AT BRUSSELS, IN 1895, CONCERNING THE ESTABLISHMENT OF A PERMANENT COURT OF INTERNATIONAL ARBITRATION.

The Inter-Parliamentary Conference, assembled at Brussels, considering the frequency of cases of International Arbitration and the number and extension of arbitral clauses in treaties, and desiring to see an International Justice and an International Jurisdiction established on a stable basis, charges its President to recommend to the favourable consideration of the governments of civilised states the following provisions, which may be made the subject of a diplomatic conference or of special conventions:

1. The high contracting parties constitute a PERMANENT COURT OF INTERNATIONAL ARBITRATION to take cognisance of differences which they shall submit to its decision.

In cases in which a difference shall arise between two or more of them, the parties shall decide whether the contest is of a nature to be brought before the Court, under the obligations which they have contracted by treaty.

2. The Court shall sit at.....

Its seat may be transferred to another place by the decision of a majority of three-fourths of the adhering Powers.

The government of the state in which the Court is sitting guarantees its safety as well as the freedom of its discussions and decisions.

3. Each signatory or adhering Government shall name two members of the Court.

Nevertheless, two or more Governments may unite in designating two members in common.

The members of the Court shall be appointed for a period of five years, and their powers may be renewed.

COUR D'ARBITRAGE INTERNATIONAL.

RÉSOLUTION ADOPTÉE PAR LA VI^e^ CONFÉRENCE INTERPARLEMENTAIRE.

La Conférence interparlementaire réunie à Bruxelles, considérant la fréquence des cas d'arbitrage international, le nombre et l'extension des clauses compromissoires dans les traités, désirant voir s'établir sur des bases stables une justice et une juridiction internationales,

Charge son président de recommander à l'examen bienveillant des gouvernements des Etats civilisés les dispositions suivantes qui pourront faire l'objet d'une conférence diplomatique ou de conventions spéciales.

1. Les parties contractantes constituent une *Cour permanente d'arbitrage international* pour connaître des différends qui seront soumis à sa décision.

Dans le cas où un différend surgirait entre deux ou plusieurs d'entre elles, les parties contractantes décideront si le litige est de nature à être porté devant la Cour, sous réserve des obligations qu'elles peuvent avoir contractées par traité.

2. La cour siège à.....

Le siège en pourra être transféré ailleurs par décision prise à la majorité des trois quarts des puissances adhérentes.

Le gouvernement de l'Etat dans lequel siège la Cour garantit sa sûreté, ainsi que la liberté de ses discussions et décisions.

3. Chaque gouvernement signataire ou adhérent nomme deux membres de la Cour. Néanmoins, deux ou plusieurs Etats peuvent se réunir pour désigner en commun deux membres. Les membres de la Cour sont nommés pour une durée de cinq ans ; leurs pouvoirs peuvent être renouvelés.

4. The support and compensation of the members of the Court shall be defrayed by the state which names them.

The expenses of the Court shall be shared equally by the adhering states.

5. The Court shall elect from its members a president and a vice-president for a period of a year. The president is not eligible for re-election after a period of five years. The vice-president shall take the place of the president in all cases in which the latter is unable to act.

The Court shall appoint its clerk and determine the number of employees which it deems necessary.

The clerk shall reside at the seat of the Court, and have charge of its archives.

6. The parties may, by common accord, lay their suit directly before the Court.

7. The Court is invested with jurisdiction by means of a notification given to the clerk, by the parties, of their intention to submit their difference to the Court.

The clerk shall bring the notification at once to the knowledge of the president.

If the parties have not availed themselves of their privilege of bringing their suit directly before the Court, the president shall designate two members who shall constitute a tribunal to act in the first instance.

On the request of one of the parties, the members called to constitute this tribunal shall be designated by the Court itself.

The members named by the states that are parties to the suit shall not be a part of the tribunal.

The members designated to sit cannot refuse to do so.

8. The form of the submission shall be determined by the disputing governments, and, in case they are unable to agree, by the tribunal, or, when there is occasion for it, by the Court.

There may also be formulated a counter case.

4. Les traitements ou indemnités des membres de la Cour sont payés par l'Etat qui les nomme.

Les frais de la Cour sont supportés par parts égales par les Etats adhérents.

5. La cour élit dans son sein un président et un vice-président pour une durée d'une année. Le président n'est rééligible qu'après une période de cinq ans. Le vice-président remplace le président dans tous les cas où celui-ci est empêché.

La Cour nomme son greffier et fixe le nombre d'employés qu'elle juge nécessaire.

Le greffier réside au siège de la Cour et a le soin des archives.

6. Les parties peuvent, de commun accord, porter directement leur litige devant la Cour.

7. La Cour est saisie au moyen d'une notification faite au greffier par les parties de leur intention de soumettre leur différend à la Cour.

Le greffier porte immédiatement cette notification à la connaissance du président.

Si les parties n'ont pas usé de la faculté de porter directement leur litige devant la Cour, le président désigne les membres de la Cour qui devront constituer un tribunal appelé à prononcer en première instance.

A la requête d'une des parties, les membres appelés à constituer ce tribunal devront être désignés par la Cour elle-même.

Les membres nommés par les Etats en litige ne peuvent faire partie du tribunal.

Les membres désignés pour siéger ne peuvent s'y refuser.

8. Le compromis est arrêté par les gouvernement litigants ; à défaut d'entente, il est arrêté par le tribunal ou, s'il y a lieu, par la Cour.

Il peut être formulé une demande reconventionnelle.

9. The judgment shall disclose the reasons on which it is based, and it shall be pronounced within a period of two months after the close of the discussions. It shall be notified to the parties by the clerk.

10. Each party has the right to interpose an appeal within three months after the notification of the judgment.

The appeal shall be brought before the Court. The members named by the states concerned in the litigation, and those who formed part of the tribunal, cannot sit in the appeal.

The case shall proceed as in the first instance. The judgment of the Court shall be definitive. It shall not be attacked by any means whatsoever.

11. The execution of the decisions of the Court is committed to the honour and good faith of the litigating states.

The Court shall make a proper application of the agreements of parties who, in an arbitration, have given it the means of attaching a pacific sanction to its decisions.

12. The nominations prescribed by Article 3 shall be made within six months from the exchange of the ratifications of the convention. They shall be brought by diplomatic channels, to the knowledge of the adhering powers.

The Court shall assemble and fully organise one month after the expiration of that period, whatever may be the number of its members. It shall proceed to the election of a president, of a vice-president, and of a clerk, as well as to the formulation of rules for its internal regulation.

13. The contracting parties shall formulate the organic law of the Court. It shall be an integral part of the convention.

14. States which have not taken part in the convention may adhere to it in the ordinary way.

Their adhesion shall be notified to the Government of the country in which the Court sits, and by that to the other adhering Governments.

9. Le jugement est motivé ; il est prononcé dans un délai de deux mois après la clôture des débats. Il est notifié aux parties par le greffier.

10. Chaque partie a le droit d'interjeter appel dans les trois mois de la notification.

L'appel est porté devant la Cour. Les membres nommés par les Etats en litige et ceux qui ont fait partie du tribunal ne peuvent y siéger.

Il est procédé comme en première instance. L'arrêt de la Cour est définitif. Il ne peut être attaqué par un moyen quelconque.

11. L'exécution des décisions de la Cour est confiée à l'honneur et à la bonne foi des Etats en litige.

La Cour fera application des conventions des parties qui, dans un compromis, lui auraient donné les moyens de sanctionner pacifiquement ses décisions.

12. Les nominations prescrites sous le chiffre III seront faites dans les six mois de l'échange des ratifications de la convention. Elles seront portées, par la voie diplomatique, à la connaissance des Etats adhérents.

La Cour sera instituée et se réunira de plein droit à son siège un mois après l'expiration de ce délai, quel que soit le nombre de ses membres. Elle procédera à l'élection d'un président d'un vice-président et d'un greffier, ainsi qu'à l'élaboration de son règlement d'ordre intérieur.

13. Les parties contractantes formuleront le règlement organique de la Cour. Il fera partie intégrante de la convention.

14. Les Etats qui n'ont point pris part à la convention sont admis à y adhérer dans les formes habituelles.

Leur adhésion sera notifiée au gouvernement du pays où siège la Cour et par celui-ci aux autres gouvernements adhérents.

MEMORIAL OF THE BAR ASSOCIATION OF THE STATE OF NEW YORK.

Adopted in the City of Albany, 22nd January, 1896.

FIRST.—The establishment of a permanent International Tribunal, to be known as "The International Court of Arbitration."

SECOND.—Such Court to be composed of nine members, one each from nine independent states or nations, such representative to be a member of the Supreme or Highest Court of the nation he shall represent, chosen by a majority vote of his associates, because of his high character as a publicist and judge, and his recognised ability and irreproachable integrity. Each judge thus selected to hold office during life or the will of the Court selecting him.

THIRD.—The Court thus constituted to make its own rules of procedure, to have power to fix its place of sessions and to change the same from time to time as circumstances and the convenience of litigants may suggest, and to appoint such clerks and attendants as the Court may require.

FOURTH.—Controverted questions arising between any two or more Independent Powers, whether represented in said "International Court of Arbitration" or not, at the option of said Powers, to be submitted by treaty between said Powers to said Court, providing only that said treaty shall contain a stipulation to the effect that all parties thereto shall respect and abide by the rules and regulations of said Court, and conform to whatever determination it shall make of said controversy.

FIFTH.—Said Court to be opened at all times for the filing of cases and counter cases under treaty stipulations by any nation, whether represented in the Court or not, and such orderly proceed-

ings in the interim between sessions of the Court, in preparation for argument, and submission of the controversy, as may seem necessary, to be taken as the rules of the Court provide for and may be agreed upon between the litigants.

SIXTH.—Independent Powers not represented in said Court, but which may have become parties litigant in a controversy before it, and, by treaty stipulation, have agreed to submit to its adjudication, to comply with the rules of the court and to contribute such stipulated amount to its expenses as may be provided for by its rules, or determined by the Court.

SEVENTH.—Your Petitioner also recommends that you enter at once into correspondence and negotiation, through the proper diplomatic channels, with representatives of the governments of Great Britain, France, Germany, Russia, The Netherlands, Mexico, Brazil and the Argentine Republic, for a union with the government of the United States in the laudable undertaking of forming an International Court substantially on the basis herein outlined.

RULES FOR INTERNATIONAL ARBITRATION.

By Professor the Marquis Corsi.

Section I.—Form and Object of Arbitration Conventions.

Art. 1.—The Agreement for Arbitration is a Convention by which two or more international juridical personalities engage to submit to the decision of one or more Arbiters all the disputes, or a specified class of disputes, which might arise between them, as also one or some disputes already existent; and by which they formulate the conditions for the validity of their decision, and engage to conform thereto.

This Convention may result, either from a general Treaty, or a special Treaty (called an Arbitration Treaty), or from a clause (termed an Arbitral Clause) inserted in a Treaty, or in a protocol of an International Congress, to which the same States have been parties.

Art. 2.—The Agreement is valid when it has been ratified by the chiefs of the signatory States in the conditions and forms required by their respective laws, and if such is the case, by the treaties which limit their liberty in regard to other States.

Art. 3.—The Agreement should specify the questions of fact or law which the Arbiters are called on to settle, and the extent of their powers.

In case of doubt as to the object of the Agreement, the Arbiters may, at the opening of their sittings, invite the parties to state definitely their intentions. But, especially if the Agreement is not limited to one or several specified questions, lack of precision in the definition of the object of the Agreement gives the Arbiters the right to interpret it, and to refer, for the extension of their powers, to previous Arbitrations and the following Articles.

PROJET DE RÈGLEMENT POUR LES ARBITRAGES INTERNATIONAUX.

PAR LE PROF. LE MARQUIS A. CORSI.

SECTION I.— FORME ET OBJET DES CONVENTIONS D'ARBITRAGES.

ARTICLE I^er^. — Le compromis est une convention par laquelle deux ou plusieurs personnes juridiques internationales s'engagent à soumettre à la décision d'un ou de plusieurs arbitres tous les conflits, ou une espèce déterminée de conflits, qui pourraient s'élever entre eux, aussi bien qu'une ou certaines contestations déjà nées; et par laquelle ils réglent les conditions pour la validité de leur décision et ils s'engagent à s'y conformer.

Cette convention peut résulter, soit d'un traité général ou spécial (dit traité d'arbitrage), soit d'une clause (dite compromissoire) insérée dans un traité, ou dans un protocole de Congrès international auquel les mêmes Etats aient adhéré.

ART. 2. — Le compromis est valide lorsqu'il a été ratifié par les chefs des Etats signataires dans les conditions et dans les formes requises par leurs lois respectives, et, si tel est le cas, par les traités qui limitent leur liberté vis-à-vis d'autres Etats.

ART. 3. — Le compromis doit spécifier les questions de fait ou de droit que les arbitres sont appelés à résoudre, et l'extension de leurs pouvoirs.

En cas de doute sur l'objet du compromis les arbitres à l'ouverture de leurs séances peuvent inviter les parties à préciser leurs intentions.

Au reste, surtout si le compromis n'est pas limité à une ou à plusieurs questions déterminées, le manque de précision dans la définition de l'objet du compromis attribue aux arbitres la faculté de l'interpréter et de s'en rapporter, pour l'extension de leurs pouvoirs, aux arbitrages précédents et aux articles qui suivent :

ART. 4.—Disputes as to whether a question which may arise between the States united by a Treaty of Arbitration, is comprised amongst those intended by the Treaty, should be submitted to the decision of the Arbiters, if one of the States requires it; only the other signatory States may require the judgment to be limited to the admissibility of the demand for Arbitration, reserving the right to raise the question afresh by a new Arbitration later on, if need be.

SECTION II.—APPOINTMENT OF ARBITERS—REFUSAL TO SERVE —FRESH APPOINTMENTS.

ART. 5.—The Arbiters may be one only, or several, constituting an Arbitral Tribunal, or Arbitration Court.

Whatever be their number, they are appointed conjointly by the contracting States, in accordance with the stipulations of the Agreement.

In default of such stipulations, or in case of disagreement as to the manner of choosing, each of the parties chooses two Arbiters, and the Arbiters thus nominated choose another, or appoint a third person who shall choose him.

ART. 6.—When it is agreed that, the Arbiters being an even number, if they do not succeed in coming to an agreement, the question shall be submitted to an Umpire, the latter should be nominated and accepted before the Arbiters begin to treat of the questions which form the object of the Arbitral Agreement; but he shall not act as member of the Tribunal, but shall only be called on to give an award on their invitation, and for the principal or incidental questions in which they shall have been unable to agree.

ART. 7.—If the Arbiters are nominated or appointed in the Agreement, either one of the contracting parties may take the initiative in calling them together, while inviting the other party to join them in taking the necessary steps.

ART. 4. — Les contestations sur le point de savoir si une question qui s'agite entre les Etats liés par un traité d'arbitrage est comprise parmi celles prévues par ce traité, doivent être soumises à la décision des arbitres, si l'un des Etats l'exige ; seulement les autres Etats signataires peuvent exiger que le jugement soit limité à l'admissibilité de la demande d'arbitrage, se réservant à provoquer ensuite, s'il en sera le cas, par un nouvel arbitrage, la décision de la question de fond.

SECTION II. — DÉSIGNATION, RÉCUSATION ET SUBSTITUTION DES ARBITRES.

ART. 5. — Les arbitres peuvent être un seul, ou plusieurs constituant un Tribunal arbitral, ou Cour d'arbitrage.

Quel que soit leur nombre, ils sont nommés conjointement par les Etats contractants, suivant les dispositions du compromis.

A défaut de ces dispositions, ou en cas de désaccord dans la forme du choix, chacune des parties choisit deux arbitres, et les arbitres ainsi nommés en choisissent un autre, ou désignent une personne tierce qui l'indiquera.

ART. 6. — Lorsqu'il est convenu que, les arbitres étant en nombre pair, s'ils ne réussissent à se mettre d'accord, la question soit soumise à un sur-arbitre (*umpire*), celui-ci devra être nommé et accepté avant que les arbitres commencent à traiter les questions qui font l'objet du compromis ; mais il n'agira pas comme membre du tribunal, étant appelé à prononcer sa décision seulement d'après leur invitation, et pour les questions principales ou incidentelles dans lesquelles ils n'auront pu tomber d'accord.

ART. 7. — Si les arbitres sont nommés ou désignés dans le compromis, chacune des parties contractantes peut prendre l'initiative de leur réunion, en invitant l'autre à faire ensemble les démarches nécessaires.

The express or tacit refusal to provide for the formation or the first convocation of the Tribunal, shall be considered tantamount to a withdrawal from the Treaty by the State which thus refuses; so that it shall no longer be able to profit thereby when it may choose to appeal to it.

If the third person charged with the choice of the Arbiters refuses to make a choice, the Treaty obligation is suspended until the parties have substituted another in his place.

ART. 8.—All those persons are eligible for appointment as Arbiters who, according to the law of the country by which, or in the name of which, they are appointed, might be charged, if they were under its jurisdiction, with a diplomatic or judicial mission.

ART. 9.—The name of the Arbiters chosen in accordance with the last paragraph of Art. 5 should be notified immediately by the party which has chosen them, to all the others.

Each of these will (for the space of fifteen days) have the right to object to them on any of the following grounds:—

(1.) If they are subjects of one of the contracting States;

(2.) If they have a personal interest in the questions which are the object of the Arbitration;

(3.) If they have published their opinion on these same questions by pamphlets, or by speeches in public meetings, or even as members of some national or international tribunal, which has already pronounced its verdict.

ART. 10.—If the Arbiters are individually appointed in the Agreement, and they become incapacitated for one of the reasons mentioned above before they enter upon their duties, the Agreement is thereby invalidated, unless the parties can agree upon another suitable Arbiter.

But if the Agreement does not contain an individual appointment of the Arbiters, the objection to an Arbiter made by one Government to the other, by means of a note containing the reasons for the objection, obliges the nominating Government to appoint another without discussing the validity of the objection.

Le refus exprès ou tacite de pourvoir à la formation ou à la première convocation du tribunal donne lieu à considérer le compromis, ou la clause compromissoire, comme dénoncés par l'Etat qui refuse ; en sorte que celui-ci ne pourra plus se prévaloir de cette clause lorsqu'il lui arrivait de l'invoquer en sa faveur.

Si la tierce personne chargée du choix des arbitres refuse de choisir, l'obligation de compromettre est suspendue jusqu'à ce que les parties lui en aient substitué une autre.

ART. 8.—Sont capables d'être nommés arbitres toutes les personnes qui, d'après la loi du pays par lequel, ou au nom duquel, elles sont désignées, pourraient être chargées, si elles étaient ses ressortissants, d'une mission diplomatique ou judiciaire.

ART. 9.—Le nom des arbitres choisis suivant le dernier alinéa de l'art. 5 doit être immédiatement notifié par la partie qui les a désignés à toutes les autres.

Chacune d'elles pourra les récuser dans le délai de quinze jours pour un des motifs suivants :

1° s'ils sont sujets d'un des Etats contractants ;

2° s'ils ont un intérêt personnel dans les questions qui sont l'objet de l'arbitrage ;

3° s'ils ont publié leur opinion sur ces mêmes questions par des brochures, ou par des discours dans des conférences publiques, ou bien comme membres de quelque tribunal national ou international qui ait déjà prononcé son arrêt.

ART. 10.—Si les arbitres sont individuellement déterminés dans le compromis, l'incapacité survenue pour un des motifs précédents, avant qu'ils commencent leurs fonctions, infirme le compromis pour autant que les parties ne se mettent d'accord sur un autre arbitre capable.

Mais, si le compromis ne contient pas détermination individuelle des arbitres, la récusation faite par une note motivée d'un gouvernement à l'autre, oblige celui qui l'a nommé à en désigner un autre sans discuter sur la validité de la récusation.

ART. 11.—The successive challenging of more than three Arbiters by a Government is equivalent to refusal to carry out the Agreement, and produces as a consequence the effect provided for by the second paragraph of Art. 7.

ART. 12.—The acceptance of the office of Arbiter must be by writing, and should be notified to the other parties in the same manner as his nomination.

ART. 13.—The Arbiters who have been nominated by one party and accepted by the other may not be represented by substitutes, nor removed from their office unless by reason of death, or an incurable malady within one month, or a like case of *force majeure.*

In making new appointments the same forms and conditions must be observed as in the original appointment.

No Arbiter is authorised to appoint a substitute unless with the consent of all the parties, or of all the other Arbiters, if he has been chosen by them.

ART. 14.—If one of the Arbiters chosen is a State, a township, or other corporation, a religious authority, a faculty of law, a learned society, or the actual head of one of these bodies, his arbitral functions may be performed entirely or in part by a Commissioner appointed *ad hoc* by this Arbiter.

This Commissioner once invested with his functions, should preserve them, in the measure that they have been confided to him, during the whole course of the Arbitration, unless changes regarding the person he represents were such as could justify him in replacing him, or giving him fresh instructions, or modifying the extent of his powers.

SECTION III.—PLACE AND PRIVILEGES OF THE TRIBUNAL.

ART. 15.—If the Arbitral Tribunal has to be formed expressly for a particular dispute, its place of meeting will be arranged for in the Agreement, or by the Arbiters, possibly outside the territory of the parties.

ART. 11.—La récusation successive de plus de trois arbitres de la part d'un gouvernement, équivaut à refus d'exécuter le compromis et produit à sa charge l'effet prévu par le 2e al. de l'art. 6.

ART. 12.—L'acceptation de l'office d'arbitre a lieu par écrit et doit être notifiée aux autres parties dans la même forme que sa nomination.

ART. 13.—Les arbitres qui ont été nommés d'une part et acceptés de l'autre ne peuvent être substitués, ni éloignés de leur office, si ce n'est à cause de mort, ou d'une maladie incurable dans un mois, ou d'un cas semblable de force majeure.

Alors pour les remplacer on doit observer les formes et les conditions adoptées pour leur nomination.

Aucun arbitre n'est autorisé à se nommer lui-même un substitut, si ce n'est avec le consentement de toutes les parties, ou de tous les autres arbitres, s'il a été choisi par ces derniers.

ART. 14.—Si un des arbitres choisis est un Etat, une commune, ou autre corporation, une autorité religieuse, une faculté de droit, une société savante, ou le chef actuel d'une de ces personnes morales, ses fonctions d'arbitre peuvent être remplies entièrement ou en partie par un commissaire nommé *ad hoc* par cet arbitre.

Ce commissaire une fois investi de ses fonctions doit les conserver, dans la mesure qu'elles lui ont été confiées, pendant toute la durée de l'arbitrage, sans que les changements survenus à l'égard de la personne qu'il représente puissent autoriser cette dernière à le remplacer, ou à lui donner des instructions nouvelles, ou à modifier l'extension de ses pouvoirs.

SECTION III.—SIÈGE ET IMMUNITÉS DU TRIBUNAL.

ART. 15.—Si le tribunal arbitral doit être constitué exprès pour un conflit déterminé, le lieu de ses réunions sera établi dans le compromis ou par les arbitres, possiblement en dehors du territoire des parties.

Even when the seat of the Tribunal has been fixed beforehand by the Agreement, the Arbiters, by a simple majority, may resolve to transfer it elsewhere, when the accomplishment of their functions at the place agreed has become manifestly perilous for their health, or if it no longer presents the guarantees of independence which are necessary to them.

ART. 16.—In all cases the Arbitral Tribunal should be treated as a diplomatic mission of the first rank, both as to the honours to be paid to the members and the immunities which they enjoy in the exercise of their functions, and also as to the punishment of offences which might be directed, even through the Press, against their deliberations or against their persons.

SECTION IV.—CONSTITUTION AND ORGANISATION OF THE ARBITRAL TRIBUNAL.

ART. 17.—Each of the parties in the case may appoint an agent who shall watch over its interests or the interests of those under its jurisdiction, and undertake their defence; who shall present petitions, documents, and interrogatories, state conclusions, or reply to them, and furnish the proofs of his statements, and who by himself or by the medium of a lawyer, verbally or in writing, according to the rules of procedure (which the Commission itself shall publish when beginning its functions), shall state the points of his case, and the legal principles or the precedents which support his case.

ART. 18.—The Arbiters, in their first meetings, shall take the following steps:—

(1.) They shall choose from their own number a President; they shall name the secretaries and other officers charged with the editing of the minutes of their conferences, the transmission of documents, the care of archives, &c.; they shall recognise the agents and the counsel appointed by the parties for their defence, as appears in the previous article; and see to other matters necessary for the conduct of business.

Même dans le cas où le siège du tribunal a été fixé d'avance par le compromis, les arbitres, à la simple majorité, peuvent délibérer de le transférer ailleurs, lorsque l'accomplissement de leurs fonctions au lieu convenu est devenu manifestement périlleux pour leur santé, ou bien s'il ne présente plus les garanties d'indépendance qui leur sont nécessaires.

ART. 16.—Dans tous les cas le tribunal arbitral doit être traité comme une mission diplomatique de premier rang, soit quant aux honneurs qui lui sont dûs et aux immunités dont jouissent ses membres dans l'exercice de leurs fonctions, soit quant à la punition des offenses qui pourraient être dirigées, même au moyen de la presse, contre leurs délibérations, ou contre leurs personnes.

SECTION IV.—CONSTITUTION ET ORGANISATION DU TRIBUNAL ARBITRAL.

ART. 17.—Chacune des parties en cause pourra constituer un agent qui veille à ses intérêts ou à ceux de ses ressortissants et qui en prenne la défense; qui présente des pétitions, documents, interrogatoires, qui pose des conclusions ou y réponde, qui fournisse les preuves de ses affirmations, qui, par lui-même, ou par l'organe d'un homme de loi, verbalement ou par écrit, conformément aux règles de procédure que la Commission elle-même arrêtera en commençant ses fonctions, expose les doctrines, les principes légaux ou les précédents qui conviennent à sa cause.

ART. 18.—Les arbitres dans leurs premières réunions accomplissent les opérations suivantes :

1° Ils choisissent dans leur sein un président; ils nomment les secrétaires et autres officiers chargés de la rédaction des procès-verbaux des séances, de la transmission des actes, de la conservation des archives, etc.; ils reconnaissent les agents, et les conseils délégués par les parties pour leur défense comme il est dit à l'article précédent; et ils pourvoient aux autres conditions nécessaires pour fonctionner.

(2.) They shall investigate the object of the Arbitration, and where this is not clearly specified in the Agreement, invite the parties to define its scope and the limits of their powers.

(3.) They shall decide in what language their records should be drawn up, the means of proof or defence, and oral discussions; and decide whether the public may be admitted at all to be present at these discussions, and which of their documents can be published, and in what form.

(4.) The accessory questions having been presented since the commencement, they shall decide whether they ought to settle them apart from the main question: and in general they shall decide all preliminary questions of competence, while keeping in view the principle that the aim and object of the Agreement is to efface all traces of the conflict which the parties have submitted to them.

(5.) They shall establish the procedure to be followed, whether by taking note of the rules contained in the Agreement, or by agreeing to rules adopted by other tribunals, or in enacting new rules.

ART. 19.—The Arbiters are not bound in their opinion, nor in the measure of their jurisdiction by previous decrees of the Tribunals of a State on the questions which are proposed to them. In this respect they should place themselves in the position of a constituted authority outside of every judicial hierarchy, to settle these questions *de novo*, in the first and last resort, relatively to the contesting Governments, as much as to their Tribunals and their citizens.

ART. 20.—The decision of the majority of the Arbiters will be definitive both on the principal questions and on those of minor importance, unless it has been expressly settled in the conditions of the Arbitration that unanimity is indispensable.

In the latter case there will be drawn up a minute of the decision proposed by the majority, and the reasons which prevent the minority from concurring.

2° Ils reconnaissent l'objet de l'arbitrage, et dans le cas qu'il ne soit clairement spécifié dans le compromis ils invitent les parties à déclarer sa portée et les limites de leurs pouvoirs.

3° Ils établissent dans quelle langue doivent être rédigés leurs actes, les moyens de preuve ou de défense et les discussions orales ; et ils décident si le public pourra être admis en quelque partie à assister à ces discussions, et lesquels parmi leurs actes pourront être publiés, et en quelle forme.

4° Les questions accessoires ayant été présentées dès le commencement, ils décident s'ils doivent les résoudre séparément de la question principale ; et, en général ils décident toute questions *préliminaires* de compétence, en tenant compte du principe que le but du compromis est celui d'effacer toutes les traces du conflit que les parties leur ont soumis.

5° Ils établissent la procédure à suivre, soit en prenant acte des règles contenues dans le compromis, soit en se rapportant à des règlements adoptés par d'autres tribunaux, soit en édictant des règles nouvelles.

ART. 19.—Les arbitres ne sont pas liés dans leur opinion, ni dans la mesure de leur juridiction, par les arrêts précédents des tribunaux d'un Etat sur les questions qui leur sont proposées. A cet égard ils doivent se placer dans la condition d'une autorité constituée, en dehors d'une hiérarchie judiciaire quelconque, pour résoudre ces questions *ex novo* en premier et en dernier ressort, tant relativement aux gouvernements en conflit, qu'à leurs tribunaux et à leurs citoyens.

ART. 20.—La décision de la majorité des arbitres sera définitive aussi bien sur les questions principales que sur celles secondaires, à moins que dans les conditions de l'arbitrage on ait expressément déterminé que l'unanimité serait indispensable.

Dans ce dernier cas il sera rédigé procès-verbal de la décision proposée par la majorité et des raisons qui empêchent à la minorité d'y adhérer.

In the former case the dissentient members shall be allowed to insert in the records their dissent, with the reasons therefor, only if the majority has expressly refused to take cognisance of some document, fact, or argument on which their dissent is based.

Section V.—Regulations for Debate—Admission of Proofs—Incidental Demands.

Art. 21.—If the Convention does not prescribe a mode of procedure, the following rules are adopted:—

The Tribunal, at its opening meeting, fixes the forms and the periods of time in which each party shall, by its accredited agents, present simultaneously its arguments or counter-arguments in matters of fact and law, state its means of proof (written or oral), present its documents and communicate them to the opposing party.

In like manner a suitable period of time shall be fixed for each party, after the examination of the case and the reply, to present its replies on matters of fact and points of law, or, after the admission of some other evidence, to explain or modify its demands, and, if occasion arise, be admitted to a preliminary discussion on the points of fact or law on which the written argument seems insufficient.

Finally, a time limit shall be fixed at the beginning for the final discussion and the termination of the pleadings, so that the award may be given within the time fixed in the Agreement.

Art. 22.—The periods of time fixed by the Tribunal may be prolonged by it, provided that all the parties be admitted to profit by it in an equal degree.

Art. 23.—The rules of procedure approved by the Tribunal cannot be modified or annulled, except with the consent of all parties, if they were fixed in the Arbitration Convention, or with the consent of the majority of the Arbiters if they were framed by them.

Dans le premier cas les membres de la minorité pourront faire insérer dans les actes un vœu contraire motivé, seulement si la majorité a expressément refusé de prendre connaissance de quelque document, fait, ou argument sur lequel est basé son dissentiment.

Section V.—Instruction du Débat.—Admission des Preuves.—Demandes Incidentelles.

Art. 21.—Dans le silence des conventions, les règles suivantes sont adoptées :

Le tribunal, dans sa séance préliminaire, fixe les formes et délais dans lesquels chaque partie devra, par ses agents accrédités auprès du tribunal, présenter simultanément ses mémoires ou contre-mémoires en fait et en droit, proposer ses moyens de preuve écrite ou orale, produire ses documents et les communiquer à la partie adverse.

Egalement un délai convenable sera établi afin que chaque partie, après l'examen des mémoires et des moyens de défense de l'adversaire, présente ses répliques en fait et en droit, ou après l'admission de quelque autre preuve, éclaircisse ou modifie ses demandes, et, le cas échéant, soit admise à une discussion préliminaire sur les points de fait ou de droit sur lesquels le débat écrit semble insuffisant.

Enfin un délai sera établi d'avance pour la discussion finale et pour la clôture du débat, en sorte que la décision puisse être rendue dans le délai convenu dans le compromis.

Art. 22.—Les délais établis par le tribunal pourront être prolongés par lui-même, à condition que toutes les parties soient admises à en profiter en égale mesure.

Art. 23.—Les règles de procédure approuvées par le tribunal ne peuvent être modifiées ou abrogées, si ce n'est avec le consentement de toutes les parties, si elles étaient établies dans les conventions d'arbitrage,—ou avec le consentement de la majorité des arbitres si elles étaient leur œuvre.

The Tribunal may always, by a simple majority of votes, interpret these rules so as to render the application of them easier, and develop them by others which might appear necessary for the accomplishment of their task.

ART. 24.—The rules relative to the nature of the proofs admissible, and the conditions and formalities necessary to render them admissible, whether fixed in the Agreement or announced by the Arbiters at the commencement of their meetings, may not be changed during the pleadings.

But if there is nothing in the Agreement or the Rules of Procedure to forbid, or in case of doubt as to the force of the provisions, the Tribunal shall admit, by General Orders, those means of proof which are not excluded by the Rules or the Agreement, and which are not irreconcilable with the character of the questions to be decided, or with the principles of international public order.

ART. 25.—Each party may demand of the other the production of the reserved documents at its disposal, which the Tribunal declares to be vital to the question.

But no party shall have the right to submit to examination those documents (hereinafter called "domestic documents") which, having existed before the difference arose, and being since then in the possession of, or known by, one party or its predecessors in title, have not been communicated to the other party or its predecessors in title, before the difference arose.

ART. 26.—Solemn written statements, made in due form by a witness before a public officer, should be admissible in evidence as proof of relevant facts, subject to the right of cross-examining the witness. The probative value of such statements would always be for the Tribunal.

ART. 27.—Each party should be entitled to require the other to produce, for oral examination before the Tribunal, any witness making on behalf of that other party such a written statement as is mentioned in Art. 26.

Le tribunal pourra toutefois, à la simple majorité des voix, interpréter ces règles pour en rendre l'application plus facile, et les développer par d'autres qui paraîtraient nécessaires pour l'accomplissement de leur tâche.

ART. 24.—Les règles relatives à la nature des preuves admissibles et aux conditions de formes requises pour les admettre, qu'elles soient établies dans le compromis ou édictées par les arbitres au début de leurs séances, ne pourront être changées pendant le débat.

Mais en cas de silence du compromis et du règlement de procédure, ou en cas de doute sur la valeur de leurs dispositions, le tribunal admettra, par des arrêts d'ordre général, ces moyens de preuve qui n'ont été défendus par le règlement ni par le compromis, et qui ne sont pas inconciliables avec le caractère des questions à résoudre ou avec les principes d'ordre public international.

ART. 25.—Chaque partie pourra exiger de l'autre qu'elle produise les documents réservés dont elle dispose et que le tribunal juge décisifs pour la question.

Mais aucune partie n'aura le droit de soumettre à l'examen ces documents (que nous appellerons *privés*) dans le cas que,—ayant existé avant le conflit, et étant dès lors dans le domaine ou à connaissance d'une partie ou de ses auteurs, — ils n'aient été communiqués à l'autre ou à ses auteurs avant l'origine du conflit.

ART. 26.—Les dépositions écrites faites en due forme par un témoin devant un officier public devront être acceptées comme preuve des faits pertinents, avec le droit pour l'autre partie de contre-interroger le témoin.

Le tribunal sera pourtant toujours souverain dans l'appréciation de la valeur probante de ses dépositions.

ART. 27. — Chaque partie pourra exiger que l'autre présente, pour l'examen oral devant le tribunal, les témoins qui ont fait en faveur de l'autre partie les dépositions écrites mentionnées à l'art. 26.

When a witness cannot be produced before the Arbitral Tribunal, the Tribunal may commission the judicial authorities exercising jurisdiction over the place of the domicile of the witness to hold the necessary cross-examination. Domestic documents, and the statements of witnesses who, though required by one party, have not been produced for oral examination by the other party, may, on the application of the party (against which they are adduced) be expunged from the evidence, and not be included in the records which the Tribunal may have reprinted, if it please.

ART. 28.—When the Tribunal is forming its award, no one but the Secretaries who have the charge of recording the Minutes shall be present at the meetings of the Tribunal.

ART. 29.—Neither the parties nor the Arbiters may bring into the Arbitration other States, or third persons, unless with the previous consent of all the parties and of this third person or State.

The spontaneous intervention of a third party is not admissible, except with the consent of the parties in the case.

ART. 30.—Cross claims may not be brought before the Tribunal unless they have been submitted to it by the Agreement, or the parties are agreed to submit them to its decision.

SECTION VI.—FORMATION AND PUBLICATION OF THE AWARDS, AND CONDITIONS OF THEIR VALIDITY.

ART. 31.—Interlocutory judgments need not be published, being notified to the agents of the parties, or their Governments.

Definitive awards, whether they decide one question only, or all the questions at once which were submitted to the Arbiters, shall not be published until the final sitting of the Tribunal, by their being read on that occasion, and by notification to the agents, or to their Governments in the periods of time fixed by the rules.

Lorsque ces témoins ne peuvent être traduits avant le tribunal arbitral, celui-ci pourra requérir à cet effet l'autorité judiciaire compétente d'après la loi de leur domicile.

Les documents privés et les dépositions des témoins qui, malgré les instances d'une partie, n'ont pas été présentés par l'autre à l'examen oral, peuvent être sur sa demande éliminés du procès, et ne pas être compris dans les actes, que le tribunal peut faire réimprimer à sa volonté.

ART. 28.—Lorsque le tribunal prend ses décisions, personne, excepté les secrétaires chargés de la rédaction des procès-verbaux, ne pourra assister aux séances du tribunal.

ART. 29.— Ni les parties ni les arbitres d'office ne peuvent appeler en cause d'autres Etats ou des tierces personnes, si ce n'est avec le consentement préalable de toutes les parties et de cette tierce personne ou Etat.

L'intervention spontanée d'un tiers n'est admissible qu'avec le consentement des parties en cause.

ART. 30.—Les demandes reconventionnelles ne peuvent être portées devant le tribunal que si elles lui sont déférées par le compromis, ou que les parties sont d'accord pour les soumettre à sa décision.

SECTION VI.—FORMATION, PUBLICATION DES ARRÊTS ET CONDITIONS DE LEUR VALIDITÉ.

ART. 31.—Les arrêts interlocutoires n'ont pas besoin d'être publiés, étant notifiés aux agents des parties, ou à leurs gouvernements.

Les arrêts définitifs, soit qu'ils décident une seule, ou toutes à la fois les questions soumises aux arbitres, ne seront publiés que le jour de la clôture des séances, par la lecture qu'il en sera donnée, et par la notification aux agents, ou à leurs gouvernements dans les délais établis par le règlement.

Nevertheless, when the Tribunal decides the questions separately, it may give the President the power to communicate a certified copy of such award to the parties, who shall prove that delay in the publication is dangerous to their interests.

ART. 32.—The Tribunal should definitively decide all the points of the dispute, and should not be allowed to refuse an award under any pretext.

Nevertheless, if the Agreement does not insist on a simultaneous definitive award on all points, the Tribunal may, whilst definitively deciding certain points, reserve the others for a later stage of the proceedings.

If the Tribunal does not find that the claims of any of the parties are well founded, it should declare so, establishing in its award the real state of the law between the parties on the subject of the dispute.

ART. 33.—The majority of the total number of the Arbiters shall be able to act in spite of the absence or the departure of the minority. The decisions of this majority shall be definitive both on the principal questions and on the secondary questions, unless, in the conditions of the Arbitration, it is expressly stipulated that unanimity is indispensable.

ART. 34.—All the awards of the Tribunal should be drawn up in writing, and contain a recital of the reasons, unless the opposite is expressly stipulated in the Agreement.

They should be signed by each of the Arbiters; if some refuse, there should be added to the signatures of the others the declaration that such members have refused to sign; and if they require it, a record shall be made in a separate Minute of the reasons by which they justify their refusal.

ART. 35.—The definitive award should be given within the period of time fixed by the Agreement or by the rules adopted at the commencement of the labours of the Tribunal.

Toutefois lorsque le tribunal décide les questions séparément, il pourra attribuer au président la faculté d'en donner communication par extrait, comme document authentique, aux parties qui prouveront que le retard dans la publication est dangereux pour leurs intérêts.

ART. 32.—Le tribunal doit décider définitivement tous les points du litige, ne pouvant refuser de prononcer sous aucun prétexte.

Toutefois, si le compromis ne prescrit pas la décision définitive simultanée de tous les points, le tribunal peut, en décidant définitivement certains points, réserver les autres pour une procédure ultérieure.

Si le tribunal ne trouve fondées les prétentions d'aucune des parties, il doit le déclarer, établissant dans son arrêt l'état réel du droit entre les parties sur l'objet du litige.

ART. 33.—La majorité du nombre total des arbitres pourra agir malgré l'absence ou le départ de la minorité. Les décisions de cette majorité seront définitives aussi bien sur les questions principales que sur les questions secondaires, à moins que, dans les conditions de l'arbitrage, on ait expressément déterminé que l'unanimité serait indispensable.

ART. 34.—Tous les arrêts du tribunal doivent être rédigés par écrit et contenir un exposé des motifs, sauf dispense stipulée dans le compromis.

Ils doivent être signés par chacun des arbitres ; si quelques-uns s'y refusent, on ajoutera à la signature des autres la déclaration que les tels membres ont refusé de signer ; et on prendra acte, s'ils l'exigent, dans un procès-verbal à part, des raisons par lesquelles ils justifient leur refus.

ART. 35.—La décision définitive doit être prononcée dans le délai fixé par le compromis ou par le règlement adopté au début des travaux du tribunal.

There may be deducted, however, the time during which the Tribunal has been prevented by *force majeure* from continuing its work. In the case where the time (fixed by the Agreement or by the Arbiters) has proved insufficient for full examination, or from some unforeseen circumstance, it cannot be extended except by a subsequent convention, or, respectively, by a decree of the Arbiters, containing the reasons therefor.

Section VII.—Execution and Revision of the Award.

Art. 36.—On the demand of one of the parties, the award shall fix a limit of time within which it should be executed; and, if the Agreement expressly gives the Arbiters this authority, it should further impose guarantees (either pecuniary or territorial or personal) which the condemned party must furnish in order to assure the acomplishment of the obligations imposed by the award.

If no limit of time or guarantee is specified, the award is to be executed immediately and spontaneously.

Art. 37.—If it be necessary for a third Power, which had not signed the Agreement, to conform to the award or accomplish some act to enable it to be carried into effect, it must be notified to that Power by the more active party; but that Power may confine itself to taking note of this communication.

Art. 38.—In case of refusal or voluntary delay in the execution of the award, the President of the Tribunal or the Umpire, if it is he who has drawn it up, shall, on the demand of that party which complains of the delay or refusal, as soon as possible, invite the other party to present its defence within a fixed period of time.

Except in the cases where this proves a demand for revision according to Art. 40, the Tribunal or the Umpire will confine themselves to deciding whether the reasons on which the contesting party relies have been already considered implicitly or explicitly in the award.

On pourra toutefois faire déduction du temps pendant lequel le tribunal, par force majeure, aura été empêché de continuer ses fonctions.

Dans le cas où les moyens d'instruction ou quelque circonstance imprévue auraient rendu insuffisant le délai fixé par le compromis ou par les arbitres, il ne pourra être prolongé que par une convention subséquente, où, respectivement, par un arrêt motivé des arbitres.

SECTION VII. — EXÉCUTION ET RÉVISION DE LA SENTENCE.

ART. 36. — Sur la demande de l'une des parties, la sentence établira un délai dans lequel elle devra être exécutée ; et, si le compromis donne expressément aux arbitres cette autorité, elle devra en outre établir les garanties (soit pécuniaires, soit territoriales ou personnelles) que la partie condamnée devra fournir pour assurer l'accomplissement des obligations imposées par la sentence.

A défaut de délai et de garanties, la sentence devra être exécutée immédiatement et spontanément.

ART. 37. — S'il est nécessaire qu'une puissance tierce, qui n'avait pas signé le compromis, se conforme à la sentence ou accomplisse quelque acte, pour qu'elle puisse être exécutée, elle devra lui être notifiée par la partie plus diligente ; mais elle pourra se limiter à prendre acte de cette communication.

ART. 38. — En cas de refus ou de retard volontaire dans l'exécution de la sentence, le président du tribunal ou le sur-arbitre (si c'est lui qui l'a rédigée), sur la demande de cette partie qui se plaint du retard ou de refus, invitent, aussitôt que possible, l'autre partie à présenter ses défenses dans un délai déterminé.

Sauf les cas où celle-ci conclut à une demande en révision conforme à l'article 40, le tribunal ou le sur-arbitre se limitent à décider si les motifs sur lesquels s'appuie la partie contestante ont été déjà envisagés implicitement ou explicitement dans la sentence.

If these reasons have not been considered they will provide for this by an additional declaration, which shall form an integral part of the award.

In the contrary case, they declare by a new judgment, which shall be published in all forms, the refusal or voluntary delay in the execution of the award, and they fix a peremptory limit of time, after which the contesting party shall be exposed to the consequences provided for in the following article.

ART. 39. — Refusal to submit to the award provided for by the preceding Article is not only the gravest violation of a treaty law, but a direct offence against the principles of law on which rests the society of States.

The Government which incurs this guilt exposes itself to all the consequences which may be arranged for in the Agreement, amongst others that Arbitral Clauses contained in other treaties with the same State can no longer be appealed to by it, and these treaties may be considered by the other party as lapsed *ipso jure* without any regard to the limits of time fixed for their lapsing.

It is, furthermore, liable to see the other States, with which it is united by Arbitration Treaties, refuse to observe their clauses unless it presents special guarantees for their execution.

ART. 40.—If the Agreement does not forbid it, there may be admitted before the same Arbiters the demands for correction or revision of the award, presented by one of the parties, provided they are founded on one of the following reasons, and without prejudice to the rights acquired by interlocutory awards, or parts of the definitive award already executed:

(*a*) Contradiction in the purview, between the different parts of the definitive award, or between these and other awards published by the same Tribunal in the same case.

(*b*) Forgeries in the documents or in the proofs on which the award is expressly founded—on condition that the party which sustains the falsification of these means of evidence did not

Si ces motifs n'ont été envisagés, ils y pourvoient par une déclaration additionnelle qui fera partie intégrale de la sentence.

En cas contraire, ils constatent par un nouvel arrêt, qui sera publié en toutes formes, le refus ou le retard volontaire dans l'exécution de la sentence, et ils établissent un délai péremptoire, au delà duquel la partie contestante sera exposée aux conséquences prévues dans l'article suivant.

ART. 39. — Le manque de soumission à l'arrêt prévu par l'article précédent implique non seulement la plus grave violation d'un droit conventionnel, mais une offense directe aux principes de droit sur lesquels repose la société des États.

Le gouvernement qui s'en rend coupable s'expose à toutes les conséquences qui pourront être établies dans le compromis, entre autres à celle, que les clauses compromissoires contenues dans d'autres traités avec ce même Etat, ne pourront plus être invoquées par lui, et ces traités pourront être considérés par l'autre partie comme dissous *ipso jure* sans aucun égard aux délais établis pour pouvoir les dénoncer.

Il s'expose en outre à voir les autres États, avec lesquels il est lié par des traités d'arbitrage, refuser d'en observer les clauses s'il ne présente des garanties spéciales pour leur exécution.

ART. 40. — Si le compromis ne l'interdit pas, on pourra admettre devant les mêmes arbitres les demandes de correction ou de révision de la sentence présentées par l'une des parties, à condition qu'elles soient fondées sur l'un des motifs suivants, et sans préjudice des droits acquis par effet des arrêts interlocutoires, ou des parties de la sentence définitive, qui auraient été déjà exécutées :

(*a*) Contradiction dans le dispositif, entre les différentes parties de la sentence définitive, ou entre celles-ci et d'autres sentences publiées par le même tribunal dans la même cause.

(*b*) Faux dans les documents ou dans les preuves sur lesquelles est expressément fondée la décision, — à condition que la partie qui soutient la falsification de ces moyens d'instruction n'en ait pas

possess the knowledge of it during the argument, and that it has been declared by an authority whose competence is not, nor can be contested, according to the principles of Common Law, by any of the parties in the case.

(*c*) Error of Fact, provided that the award is founded expressly on the existence or on the want of a document or a fact, whose existence or want has not been observed before the Tribunal, or has not been able to be proved, whereas after the publication of the award they have been successful in giving such proofs of it that all the parties must admit them as decisive.

ART. 41.—The demand for revision or correction should be notified by writing, with the reasons and the copies of the documents to all the Arbiters, as also to each of the parties, with such a number of copies that they may be communicated immediately to their agents before the Arbitral Tribunal. Within one month after this notification each party must notify to the others and to the Arbiters its reply or its defence with reasons, which shall not confer any right to further replies.

On these materials the Arbiters shall pronounce their final award, fixing a positive period for its execution, that it may produce the same effects as that provided for by Art. 39.

ART. 42.—The costs of Arbitration procedure shall be paid in equal proportions by the Governments interested; but the expenses incurred by the parties for the preparation and carrying on of their case shall be paid by each of them individually.

On the demand of the parties, the Tribunal may charge the one which has been condemned with the total, or the greater part, of the costs of the Arbitration.

eu connaissance pendant le débat, et qu'elle ait été déclarée par une autorité dont la compétence n'est, ou ne peut-être contestée, selon les principes de droit commun, par aucune des parties en cause.

(*c*) Erreur de fait, — à condition que la sentence soit fondée expressément sur l'existence ou sur le défaut d'un acte ou d'un fait, dont l'existence ou le défaut n'ait pas été observé avant le tribunal, ou n'ait pu être prouvé, tandis qu'après la publication de l'arrêt, on réussit à en donner de telles preuves que toutes les parties doivent les admettre comme décisives.

ART. 41.—La demande de révision ou correction doit être notifiée par écrit, avec les motifs et les copies des documents, à tous les arbitres, aussi bien qu'a chacune des parties, en tel nombre d'exemplaires qu'elle puisse être immédiatement communiquée à leurs agents auprès du tribunal arbitral.

Dans le délai d'un mois après cette notification, chaque partie devra notifier aux autres et aux arbitres sa réponse, ou sa défense motivée, qui ne donnera droit à d'autres répliques.

Sur ces éléments les arbitres prononceront leur dernier arrêt, établissant un délai péremptoire pour son exécution, afin qu'il puisse produire les mêmes effets que celui prévu par l'article 39.

ART. 42.—Les frais de procédure d'arbitrage seront payés en proportions égales par les gouvernements intéressés; mais les dépenses faites par les parties pour la préparation et la poursuite de leur défense seront payées par chacune d'elles individuellement.

Sur la demande des parties, le tribunal pourra mettre à la charge de celle qui a été condamnée le total, ou une portion plus grande, des frais de l'arbitrage.

THE ANGLO-AMERICAN ARBITRATION TREATY.

11th January, 1897.

PREAMBLE.

The Governments of Great Britain and the United States, desirous of consolidating the relations of amity so happily existing, and of consecrating by treaty the principle of International Arbitration, have therefore concluded the following Treaty:—

ART. 1.—The high contracting parties agree to submit to Arbitration, in accordance with the provisions and subject to the limitations of the Treaty, all questions in difference between them which may fail to adjust themselves by diplomatic negotiations.

ART. 2.—All pecuniary claims or groups of pecuniary claims which do not in the aggregate exceed £100,000 in amount, and which do not involve the determination of territorial claims, shall be dealt with and decided by an Arbitral Tribunal constituted as provided in the next following article.

In this article, and in Article 4, the words "groups of pecuniary claims" mean pecuniary claims by one or more persons arising out of the same transactions or involving the same issues of law and of fact.

ART. 3.—Each of the high contracting parties shall nominate one Arbitrator, who shall be a jurist of repute, and the two Arbitrators so nominated shall within two months of the date of nomination select an Umpire. In case they shall fail to do so within a limit of time, the Umpire shall be appointed by agreement between the members for the time being of the Supreme Court of the United States, and the members for the time being of the Judicial Committee of the Privy Council of Great Britain, each nominating body acting by a majority. In case they fail to agree upon an Umpire within three months of the date of the application being made to them in that behalf by the high con-

TRAITÉ D'ARBITRAGE ANGLO-AMÉRICAIN.

11me *Janvier* 1897.

Voici le texte du traité d'arbitrage signé récemment à Washington par MM. Olney, secrétaire d'État et Pauncefote, ambassadeur de la Grande-Bretagne :

Les gouvernements de la Grande-Bretagne et des États-Unis, désirant consolider les relations d'amitié qui existent entre les deux États et consacrer par un traité le principe de l'arbitrage international, ont conclu la convention suivante :

ARTICLE PREMIER.—Les hautes parties contractantes conviennent de soumettre à l'arbitrage, sous les réserves ci-après, toutes les questions litigieuses qui surgiront entre elles et qui ne pourront être réglées par la voie diplomatique.

ART. 2.—Les réclamations pécuniaires ou les groupes de réclamations pécuniaires, dont le total n'excède pas la somme de 100,000 livres sterling et qui n'ont pas en même temps le caractère de réclamations territoriales, seront soumises au jugement d'un tribunal arbitral constitué comme il est dit à l'article suivant.

L'expression "groupe de réclamations pécuniaires" mentionnée dans le présent article et dans l'art. 4. signifie les réclamations d'argent faites par une ou plusieurs personnes à raison des mêmes transactions ou résultant des mêmes positions de droit ou de fait.

ART. 3.—Chacune des hautes parties contractantes désignera un arbitre dans la personne d'un juriste de renom ; ces deux arbitres choisiront, dans le délai de deux mois à partir de leur nomination, un surarbitre. Dans le cas où ils négligeraient de le faire dans le délai prescrit, le surarbitre sera désigné d'un commun accord par les membres de la Cour suprême des États-Unis et par les membres de la Commission judiciaire du Conseil privé de la Grande-Bretagne, la nomination incombant à chacun de ces corps ayant lieu à la majorité. Si ceux-ci ne peuvent s'entendre sur le choix du surarbitre dans le délai de trois mois à partir du jour où ils auront été invités par les hautes parties contractantes ou par l'une

tracting parties, or either of them, the Umpire shall be selected in the manner provided for in Article 10.

The person so selected shall be President of the Tribunal, and the award of the majority of the members shall be final.

ART. 4.—All pecuniary claims or groups of pecuniary claims which shall exceed £100,000 in amount, and all other matters in difference in respect of which either of the high contracting parties shall have rights against the other under treaty or otherwise, provided such matters in difference do not involve the determination of territorial claims, shall be dealt with and decided by an Arbitral Tribunal constituted as provided in the next following Article.

ART. 5.—Any subject of Arbitration described in Article 4 shall be submitted to the Tribunal provided for by Article 3, the award of which Tribunal, if unanimous, shall be final; if not unanimous, either of the contracting parties may within six months from the date of the award demand a review thereof. In such case the matter in controversy shall be submitted to an Arbitral Tribunal consisting of five jurists of repute, no one of whom shall have been a member of the Tribunal whose award is to be reviewed, and who shall be selected as follows, viz., two by each of the high contracting parties, and one, to act as Umpire, by the four thus nominated, and to be chosen within three months after the date of their nomination.

In case they fail to choose an Umpire within the limit of time mentioned, the Umpire shall be appointed by agreement between the nominating bodies designated in Article 3, acting in the manner therein provided.

In case they fail to agree upon an Umpire within three months of the date of an application made to them by the high contracting parties or either of them, an Umpire shall be selected, as provided for in Article 10.

The person so selected shall be President of the Tribunal, and the award of the majority of members shall be final.

d'elles à procéder à cette nomination, le surarbitre sera désigné de la manière prévue à l'article 10.

La personne désignée remplira les fonctions de président du tribunal et la sentence rendue par la majorité des membres sera définitive.

ART. 4.—Les réclamations pécuniaires ou groupes de réclamations pécuniaires dont le total excède 100,000 livres sterling, de même que tous autres différends au sujet desquels l'une des hautes parties contractantes peut invoquer contre l'autre des droits résultant d'un traité ou de toute autre cause, pourvu que ces différends n'aient pas le caractère de réclamations territoriales, seront soumises au jugement d'un tribunal arbitral constitué comme il est dit à l'article suivant.

ART. 5.—Les litiges mentionnés à l'article 4 seront soumis au jugement d'un tribunal constitué comme il est dit à l'article 3. Si le jugement de ce tribunal est rendu à l'unanimité des voix, il sera définitif; dans le cas contraire, chacune des parties contractantes pourra en demander la révision dans les six mois de sa date. Dans ce cas, le différend sera soumis à un tribunal arbitral, composé de cinq juristes de renom, à l'exclusion de ceux dont la sentence doit être révisée; chacune des hautes parties contractantes nommera deux arbitres et les quatres réunis désigneront un surarbitre dans le délai de trois mois à partir du jour de leur nomination.

Dans le cas où ils négligeraient de le désigner dans le délai prescrit, le surarbitre sera choisi d'un commun accord par les corps mentionnés à l'article 3, comme il est expliqué à cet article.

Si ceux-ci ne peuvent s'entendre sur le choix du surarbitre dans le délai de trois mois à partir du jour où ils auront été invités par les hautes parties contractantes, ou par l'une d'elles, à procéder à cette nomination, le surarbitre sera désigné de la manière prévue à l'article 10.

La personne désignée remplira les fonctions de président du tribunal et la sentence rendue par la majorité des membres sera définitive.

ART. 6.—Any controversy which shall involve the determination of territorial claims shall be submitted to a Tribunal composed of six members, three of whom, subject to the provisions of Article 8, shall be judges of the Supreme Court of the United States or Justices of Circuit Courts, to be nominated by the President of the United States; and the other three, subject to the provisions of Article 8, shall be judges of the British Supreme Court of Judicature, or members of the Judicial Committee of the Privy Council, to be nominated by her Britannic Majesty; whose award by a majority of not less than five to one shall be final.

In case of the award being made by less than the prescribed majority, the award shall also be final unless either Power shall, within three months after the award has been reported, protest that the same is erroneous, in which case the award shall be of no validity.

In the event of the award being made by less than the prescribed majority, and protested against as above provided, or if members of the Arbitral Tribunal shall be equally divided, there shall be no recourse to hostile measures of any description until the mediation of one or more friendly Powers has been invited by one or both of the high contracting parties.

ART. 7.—Objections to the jurisdiction of an Arbitral Tribunal constituted under the Treaty shall not be taken except as provided in this Article.

If, before the close of the hearing upon the claim submitted to an Arbitral Tribunal constituted under Article 3 or Article 5, either of the high contracting parties shall move such Tribunal to decide, and thereupon it shall decide, that the determination of such a claim necessarily involves the decision of a disputed question of principle of grave general importance affecting the national rights of such party as distinguished from private rights, whereof it is merely an international representative, the jurisdiction of

ART. 6.—Tout différend ayant le caractère d'une réclamation territoriale sera soumis à un tribunal de six membres, dont trois seront désignés par le président des États-Unis sous réserve de ce qui est dit à l'art. 8, parmi les juges de la Cour suprême des États-Unis ou des Cours d'arrondissement, et les trois autres, sous la même réserve, par S. M. la reine de la Grande-Bretagne, parmi les juges de la Cour suprême britannique ou les membres de la Commission judiciaire du Conseil privé. La sentence du tribunal sera définitive, pourvu qu'elle ait été rendu à l'unanimité ou par cinq voix contre une.

Dans le cas de majorité insuffisante, le jugement sera également définitif, à moins qu'une des puissances ne déclare, dans les trois mois de sa date, le considérer comme faux, laquelle déclaration annule le jugement.

Lorsqu'un jugement, rendu à une majorité insuffisante, a été déclaré nul comme il vient d'être dit, ou lorsque les voix des membres du tribunal arbitral se sont partagées par moitié, les parties contractantes ne recourront à aucune mesure d'hostilité de quelle nature que ce soit avant d'avoir, ensemble ou séparément, requis la médiation d'une ou de plusieurs puissances amies.

ART. 7.—La compétence du tribunal arbitral, constitué conformément aux dispositions du présent traité ne pourra être attaquée que dans le cas suivant :

Lorsque avant la clôture de l'instruction d'une réclamation soumise à un tribunal arbitral constitué conformément aux articles 3 ou 5, ce tribunal reconnaît, à la demande de l'une des hautes parties contractantes, que la qualification de cette réclamation entraînera nécessairement une décision sur une question de principe contestée d'une importance grave et générale concernant des droits nationaux, la partie qui les revendique n'agissant pas en réalité pour la poursuite de droits privés, mais plutôt comme agent international, le tribunal arbitral sera incompétent pour

such Arbitral Tribunal over such claim shall cease, and the same shall be dealt with by Arbitration under Article 6.

ART. 8.—Where the question involved concerns a particular State or Territory of the United States, the President may appoint a judicial officer of such State or territory to be one of the Arbitrators. Where the question involved concerns a British colony or possession, her Majesty may appoint a judicial officer of such colony or possession to be one of the Arbitrators.

ART. 9.—Territorial claims in the Treaty shall include all claims to territory and all other claims involving questions of servitude, rights of navigation, and of access to fisheries, and all rights and interests necessary to the control and enjoyment of territory claimed by either of the high contracting parties.

ART. 10.—If, in any case, the nominating bodies designated in Articles 3 and 5 shall fail to agree upon an Umpire, the Umpire shall be appointed by his Majesty the King of Sweden and Norway.

Either of the high contracting parties may at any time give notice to the other that by reason of material changes in the conditions as existing at the date of the Treaty, it is of opinion that a substitute for his Majesty should be chosen. The substitute may be agreed upon.

ART. 11.—In case of the death, &c., of any Arbitrator, the vacancy shall be filled in the manner provided for in the original appointment.

ART. 12.—This Article provides for each Government paying its own counsel and Arbitrators, but in the case of an essential matter of difference submitted to Arbitration it is the right of one of the parties to receive disavowals of or apologies for acts or defaults of the other, not resulting in substantial pecuniary injury. The Arbitral Tribunal, finally disposing of the matter, shall direct

statuer sur cette réclamation et celle-ci sera soumise à l'arbitrage prévu par l'art. 6.

ART. 8.—Lorsque le différend concerne un des États ou territoires des États-Unis, le président pourra désigner comme arbitre un officier judiciaire de cet État ou territoire. Lorsque le différend concerne une colonie ou possession britannique, Sa Majesté pourra désigner comme arbitre un officier judiciaire de cette colonie ou possession.

ART. 9. — Les réclamations territoriales comprennent, aux termes du présent traité, outre celles concernant un territoire, toute question de servitude, de droit de navigation, de pêcherie, et tous les droits et intérêts dont l'exercice est nécessaire pour la surveillance ou la jouissance du territoire réclamé par l'une des hautes parties contractantes.

ART. 10.—Lorsque les corps désignés aux art. 3 et 5 ne pourront s'entendre au sujet de la nomination du surarbitre, celui-ci sera désigné par S. M. le roi de Suède et de Norvège.

Chacune des hautes parties contractantes pourra aviser en tout temps l'autre État, qu'à raison de la modification matérielle des circonstances sous l'empire desquelles le présent traité est conclu, elle estime qu'il est opportun de désigner un remplaçant à Sa Majesté. Le remplaçant pourra être consulté à ce sujet.

ART. 11.—En cas de décès, etc., d'un arbitre, il sera pourvu à son remplacement de la même manière que pour sa nomination.

ART. 12.—Chaque gouvernement paiera son conseil et ses arbitres. Cependant, dans les cas importants soumis à l'arbitrage, une partie pourra accepter des actes de désaveu, de défense ou de défaut, sans que ses charges au sujet des dépens s'en trouvent aggravées. Le tribunal arbitral décidera, dans sa sentence finale,

whether any of the expenses of the successful party shall be borne by the unsuccessful party, and to what extent.

ART. 13.—The time and place of the meeting of the Arbitral Tribunal, and all arrangements for the hearing, and all questions of procedure shall be decided by the Tribunal itself.

This Article also provides for the keeping of a record and employment of agents, &c., and stipulates that the decision of the Tribunal shall, if possible, be made within three months from the close of the arguments on both sides, and shall be in writing and dated and signed by the Arbitrators who assent to it.

ART. 14.—This Treaty shall remain in force for five years from the date it shall come into operation, and, further, until the expiration of twelve months after either of the high contracting parties shall have given notice to the other of its wish to terminate it.

ART. 15.—This Treaty shall be ratified by the President of the United States and her Majesty the Queen of Great Britain and Ireland, and the exchange of ratifications shall take place in Washington or London within six months of the date hereof, or earlier if possible.

si et dans quelles proportions les frais de la partie qui obtient gain de cause seront mis à la charge de la partie adverse.

ART. 13.—Le tribunal fixera lui-même l'époque et le lieu de ses séances ; il arrêtera également le mode d'instruction, ainsi que toutes les questions de procédure. La sentence du tribunal sera rendue si possible dans le délai de trois mois après la clôture de l'instruction ; elle sera écrite, datée et signée par les arbitres qui y ont adhéré.

ART. 14.—Le présent traité restera en vigueur pendant cinq années à partir du jour où il en sera fait application et continuera aussi longtemps que l'une des hautes parties contractantes n'aura pas signifié à l'autre État, douze mois à l'avance, qu'elle désire le résilier.

ART. 15.—Le présent traité sera ratifié par le président des États-Unis et par S. M. la reine de la Grande-Bretagne et d'Irlande. L'échange des ratifications aura lieu à Washington ou à Londres dans les six mois de sa date, ou plus tôt si possible.

RULES RELATING TO A TREATY OF INTERNATIONAL ARBITRATION.

Prepared by the Special Committee of the International Law Association, appointed in London 10th October, 1893, and revised by the Conference at Brussels, 1st and 2nd October, 1895.

1. Unless it be intended that all possible differences between the nations, parties to the Treaty, are to be referred to Arbitration, the class of differences to be referred must be defined.

2. If the Agreement for Arbitration does not specify the number and names of the Arbitrators, the Tribunal of Arbitration shall be constituted according to rules prescribed by that Agreement or by another Convention.

3. If the Tribunal is to be specially constituted, the place of meeting must be fixed. This should be outside the territories of the parties to the controversy.

4. If the Tribunal consists of more than two members, provision should be made for the decision of all questions by a majority of the Arbitrators; but the dissentient members should have the right of recording their dissent.

5. Each party should be required to appoint an agent to represent it in all matters connected with the Arbitration.

6. The Treaty should provide that if doubts arise as to whether a given subject of controversy be comprised among those agreed upon as subjects of Arbitration in it, and if one of the parties require the doubt to be settled by Arbitration, the other party must submit to such Arbitration, but may require that the judgment be limited to the admissibility of the demand for Arbitration.

7. Unless the Treaty otherwise provide, the procedure should be by case, counter-case, and printed argument, each delivered by both parties simultaneously at a fixed date, with final oral argument. The periods of time allowed for the delivery of cases, counter-cases, and printed arguments should be fixed by the Treaty, but the Tribunal should have the power of extending the time. The Tribunal itself should fix the time for hearing the oral argument.

RÈGLES POUR SERVIR À L'ÉLABORATION D'UN TRAITÉ D'ARBITRAGE INTERNATIONAL

Etablie par un Comité Spécial de l'Association de Droit International constitué à Londres le 10me *Octobre* 1893, *revisées par le Congrès de Bruxelles le* 1er *et* 2de *Octobre* 1895.

1. La nature des contestations qui seront soumises à l'arbitrage, devra être déterminée, à moins toutefois qu'il ne soit convenu entre les nations, parties au traité, que toute contestation, quelle qu'elle soit, surgissant entre elles, relèvera du tribunal arbitral.

2. A défaut de désignation, dans le compromis, du nombre et des noms des arbitres, le tribunal arbitral sera composé selon les prescriptions du compromis ou d'une autre convention.

3. Si un tribunal spécial doit être constitué, le lieu de sa réunion sera fixé en dehors du territoire des nations en cause.

4. Au cas où le tribunal comprendrait plus de deux membres, des dispositions spéciales devront être prises pour que la décision de toutes les questions soient tranchées à la majorité des arbitres. Mais la minorité aura le droit de faire consigner son dissentiment.

5. Chaque partie sera invitée à désigner un mandataire pour la représenter pour tout ce qui pourrait toucher à l'arbitrage.

6. Au cas où un doute s'élèverait sur le point de savoir si tel sujet donné de contestation est compris parmi ceux soumis à l'arbitrage, et où l'une des parties demanderait que ce doute fût tranché par arbitrage, le traité prévoira que l'autre partie devra accepter ledit arbitrage, sauf le droit pour elle de réclamer que le jugement à intervenir soit restreint à la recevabilité de cette demande d'arbitrage.

7. A moins de disposition contraire dans le traité, la procédure consistera en un exposé de la demande, une réponse et des mémoires imprimés produits par les deux parties, concuremment, à la date déterminée; elle se terminera par un débat oral. Le délai pour produire la demande, la réponse et les mémoires imprimés sera fixé par le traité, mais le tribunal aura le pouvoir de proroger le délai. Le tribunal lui-même fixera la date du débat oral.

8. Either party should be entitled to require production of any document in the possession or under the control of the other party, which in the opinion of the Tribunal is relevant to a question in dispute, and to the production of which there is, in its opinion, no sufficient objection.

9. Neither party should be entitled to put in evidence documents (hereinafter called "domestic documents") which, having existed, or purporting to have existed, before the difference arose, were in possession of or known by one party or its predecessors in title, and not communicated to the other party or its predecessors in title before the difference arose.

10. Solemn written statements made by a witness before a public officer should be admissible in evidence as proof of relevant facts, subject to the right hereinafter mentioned of cross-examining the witness. The value of such statements would be for the Tribunal to determine.

11. Either party should be entitled to require the other to produce, for oral examination before the Tribunal at the hearing, any witness making on behalf of that other party such a statement as is mentioned in Article 10, whether the witness be amenable to the jurisdiction of the other party or not. When a witness cannot be produced before the Tribunal, the Tribunal may commission the judicial authorities exercising jurisdiction over the place of the witness's domicile to hold the necessary cross-examination. If it is found impossible to procure the attendance of the witness for cross-examination, it shall be open to the Tribunal to reject his evidence.

12. Irrelevant evidence, domestic documents, and the statements of witnesses not produced for oral examination though required, may, on the application of the party against which they are adduced, be expunged by the Tribunal; and the Tribunal, on a like application, should be at liberty to direct the reprinting of any volume of case, counter-case, printed argument, or appendix, in which the same should appear or be discussed.

13. The decision should be embodied in a written award in duplicate, made and delivered to the agents within a specified time from the close of the hearing. Interlocutory judgments or orders need not be published, but shall be notified to the agents of the parties.

8. Chacune des parties en cause aura le droit d'exiger la production de tout document qui sera en sa possession ou à sa disposition, que le tribunal jugera pertinent à la cause et à la production duquel il ne trouvera pas d'objection suffisante.

9. Aucune des parties ne pourra apporter comme preuve des documents qualifiés ci-dessous "écrits privés," qui, ayant existé ou étant présumé avoir existé avant que le différend ne surgît, auraient été en la possession ou à la connaissance d'une des parties ou de ses auteurs et qui n'auraient pas été communiqués à l'autre partie ou à ses auteurs avant que la contestation ne surgît.

10. Les dépositions écrites faites par un témoin devant un officier public pourront être admises comme preuve des faits pertinents, sauf le droit mentionné plus bas de faire contre-examiner le témoin. Le tribunal appréciera la valeur de ces dépositions.

11. Chaque partie aura le droit d'exiger que l'autre partie produise, pour être interrogé oralement devant le tribunal, tout témoin ayant fait en faveur de cette partie la déposition prévue à l'art. 10, que ce témoin soit ou non justiciable des cours et tribunaux de ladite partie. Si un témoin ne peut être produit devant le tribunal, celui-ci aura la faculté de charger l'authorité judiciaire ayant juridiction au lieu du domicile du témoin pour procéder au contre-interrogatoire. Au cas où il serait impossible d'amener le témoin pour être contre-examiné, le tribunal aura la faculté de repousser la déposition.

12. A la demande de la partie contre laquelle ils sont produits, le tribunal peut rejeter toute preuve non pertinente, tous écrits privés, ainsi que les dépositions de témoins qui n'auront pas été soumis à l'interrogatoire oral, quoique cette formalité ait été requise; à la même requête, le tribunal aura la faculté de faire réimprimer tous exposés de demandes, réponses, mémoires imprimés ou annexes, dans lesquels ceux-ci seraient produits ou discutés.

13. La décision sera rendue sous la forme de sentence écrite, en double exemplaire; ceux-ci seront remis aux mandataires des parties dans un délai déterminé qui courra à partir de la clôture des débats. Les jugements et ordonnances interlocutoires ne seront pas publiés; mais ils seront notifiés aux mandataires des parties.

THE PROVED PRACTICABILITY OF INTERNATIONAL ARBITRATION.

The *Herald of Peace and International Arbitration* (London) some years ago published a number of instances wherein Arbitration, or Mediation, has been successfully tried during the present century. The Hon. David Dudley Field, of New York, subsequently made some further additions to the list, which has been revised from time to time. We have now further revised this list, and collected other cases still more recent, bringing the category up to date.

Since the general pacification of 1815 there have been over one hundred and thirty instances of Arbitration for the settlement of international disputes, some of them involving grave questions of International Law. This list, therefore, is a most conclusive proof of the practicability of Arbitration, as a chief means for the settlement of international disputes. It includes the following :—

1. Arbitration between **GREAT BRITAIN** and the **UNITED STATES**, relating to certain Islands in Passamaquoddy Bay. By Article 4 of the Treaty of Ghent, 24th December, 1814, referred to two Commissioners, one appointed by each Government, who held their first meeting at St. Andrews, New Brunswick, September 23rd, 1816, and at their last in New York, November 24th, 1817, rendered a final award.

2. **GREAT BRITAIN** and the **UNITED STATES**, to determine the Northern Boundary of the United States along the middle of the Great Lakes, &c., to the water communication between Lakes Huron and Superior. By Article 6 of the Treaty of Ghent, 1814, referred to a similar commission, which, on June 18th, 1822, reached a satisfactory agreement. By Article 7 of the Treaty of Ghent the further determination of the line of boundary to the Lake of the Woods was also referred to this commission, but on this point they were unable to agree, and it was finally determined by the Treaty of August 9th, 1842, generally known as the Webster-Ashburton Treaty.

3. **GREAT BRITAIN** and the **UNITED STATES.** By Article 5 of the Treaty of Ghent a similar Arbitration was appointed to determine the North Eastern Boundary of the United States from the source of the River St. Croix to the River St. Lawrence. This Commission held its first meeting September 23rd, 1816, and its last in New York, April 13th, 1822, when, failing to agree, the Commissioners made separate reports to their respective Governments, and the matter was again referred to Arbitration by a Convention concluded September 29th, 1827 (which see, No. 10).

4. **FRANCE** and the **ALLIED POWERS**, in 1815. By the Treaty of Paris of November 20th, 1815, *Arbitration Commissions* were appointed for the final decision of cases in the liquidation of sums due by France to communes or private establishments in foreign countries, as already determined by the Treaties of May 30th and November 20th, 1814.

5. **FRANCE** and the **NETHERLANDS**, in 1815. Objection of the Government of the Netherlands relative to the payment of the interest of its debt for the half-year, March—September, 1813, was submitted for Arbitration to a Commission of Seven, two named by each Power, and three others chosen amongst neutral Powers. Arbitral decision given 16th October, 1816, in favour of France.

6. **GREAT BRITAIN** and **FRANCE**. in 1815.. Disputes respecting inheritance of the Duchy of Bouillon, between Phillippe D'Auvergne, a vice-Admiral in the British Navy, and Prince de Rohan. By final Act of the Congress of Vienna, 9th June, 1815, it was referred to five Arbitrators, who gave their award 1st July, 1816, in favour of Prince de Rohan.

7. The **UNITED STATES** and **GREAT BRITAIN**, in 1818, about obligation to restore slaves in the possession of the British at the time of the ratification of the Treaty of Ghent, &c. Referred to the Emperor of Russia by the Treaty of October 20th, 1818, whose decision was given April 22nd, 1822, in favour of America, and was at once accepted. (See also No. 9.)

8. The **UNITED STATES** and **SPAIN**, in 1819, respecting excesses committed during the late war (*i.e.*, of 1812-14) by subjects of both nations, and the invasion of Florida by Andrew Jackson. Referred to a Commission, under Treaty proclaimed at Washington, December 22nd, 1818, which was afterwards superseded by the cession of Florida to the United States in 1819.

9. The **UNITED STATES** and **GREAT BRITAIN**, in 1822.. The amount to be paid by Great Britain under the award of the Emperor of Russia (No. 7) was, by a Convention concluded under the Emperor's mediation, July 12th, 1822, referred to a Mixed Commission, who met on August 25th, 1823, succeeded by September 11th, 1824, in reaching an agreement, and held their last session March 26th, 1827, their functions having been terminated by the Convention of London, ratified November 13th, 1826, under which Great Britain paid 1,204,960 dollars in full settlement of all the claims.

10. The **UNITED STATES** and **GREAT BRITAIN**, in 1827, about the north-eastern boundary of the United States. Referred to Arbitration by Treaty of September 29th, 1827. The King of the Netherlands was chosen Arbitrator in 1829. His award, which was given January 10th, 1831, was not accepted by the United States, and the matter was afterwards settled by a compromise, in the Treaty of October 9th, 1842, already referred to as the Webster-Ashburton Treaty. (See No. 2.)

11. **GREAT BRITAIN** and **BRAZIL**, in 1829. Difference relative to capture of British ships in 1826-7. By a Convention, signed at Rio de Janeiro, 5th May, 1829, it was referred to a Mixed Commission of four members, with the stipulation that if the majority do not agree it shall be further referred to the Brazilian Secretary of State and the British Minister at Rio de Janeiro.

12. The **UNITED STATES** and **DENMARK** in 1830. Question of mutual indemnities and claims. Denmark renounced her claims and agreed to pay 650,000 dollars. The question of the full amount of claims left was referred by Treaty signed at Copenhagen March 28th, 1830, and ratified at Washington 5th June, 1830, to a Board of Commission, to be named by the President of the United States, with the advice and consent of the Senate, who "shall adjudge and distribute the sums mentioned in Arts. 1 and 2" of the treaty. This was accordingly done.

13. **GREAT BRITAIN** and **BUENOS AYRES** (now Argentine Republic), in 1830. Claim for indemnification for illegal acts and violences committed by Privateers in late war with Brazil. By treaty signed at Buenos Ayres 19th July, 1830, it was referred to a Mixed Commission (consisting of Michael Bruce and Manuel Morens), which met in London, and liquidated the claims, amounting to £21,030 15s. 5d.

14. **BELGIUM** and **HOLLAND**, in 1834. Referred to the Plenipotentiaries of Great Britain, France, Russia, and Austria, who met in London in 1834, and effected a satisfactory arrangement, by which European peace and the independence of Belgium and Holland were secured. Permanent Treaty between the two Countries signed at London, April 19th, 1839.

15. **FRANCE** and **MEXICO**, in 1839. Mutual claims, arising out of the recent war between the two countries, terminated by the Treaty of Vera Cruz, March 9th, 1839, which provided for Arbitration. Referred to the English Sovereign, Queen Victoria, who gave her award on August 1st, 1844, to the effect that the claims on both sides were invalid.

16. The **UNITED STATES** and **MEXICO**, in 1839. Claims by citizens of the United States on the Government of Mexico. Referred under Treaty of April 11th, 1839, to four Commissioners, two from each country, and failing their agreement, to the King of Prussia, who appointed Baron Roenne, his

Minister at Washington, as Arbitrator. Under his presidency, the Commission met at Washington, and adjudicated on some of the claims, which were decided in favour of the United States. The remaining claims were referred in 1843 to another Commission by a Convention signed at Mexico, January 13th. The American Senate ratified this Convention, with an amendment which was never accepted by Mexico, and war resulted in 1846, at the close of which, by the Treaty of Guadaloupe Hidalgo, February 2nd, 1848, payment of the money was provided for, and the affair settled. This is the only case of Arbitration which has been followed by war. But this war was succeeded by an Arbitration Treaty, which is the first of the kind recorded between independent nations. The 21st Article of this Treaty of Guadaloupe Hidalgo contained an Agreement to arbitrate future difficulties between the two countries, and to this general obligation, says Prof. Moore, "all subsequent arbitral arrangements between the two countries may, in a measure, be referable."

17. **GREAT BRITAIN** and **PORTUGAL,** in 1840. Claims of British subjects for services in the late war. A Mixed Commission appointed, to sit in London—two Commissioners, co-equal in power, and an Umpire, if necessary. Awards amounting to £162,500, which Portugal agreed to pay.

18. **FRANCE** and **GREAT BRITAIN**, in 1842. Portendic claims, *i.e.*, claims for injuries sustained by British merchants, in consequence of the absence of any notification of the blockade of the Portendic coast of Morocco by France. Referred to the King of Prussia, who gave his award November 30th, in favour of Great Britain. By a mixed Commission, appointed to fix the amount of the indemnity, &c., France was adjudged to pay 42,000 francs.

19. **SARDINIA** and **AUSTRIA,** in 1845. Dispute respecting the Salt Trade. Referred to the Emperor Nicholas of Russia, as Arbitrator. He proposed to accept the rôle of Mediator, and in that capacity settled the matter.

20. **GREAT BRITAIN** and **GREECE,** in 1850. Claims against Greece. By means of the good offices of the French Government it was agreed to submit these to Arbitration. Convention signed at Athens, July 18th, 1850; ratified December 9th, 1850, referring to a Mixed Commission:—Messrs. Patrick F. C. Johnstone (appointed by Great Britain) and G. T. O'Neill (by Greece), and M. Leon Béclard, Convener and Umpire (appointed by France). All claims settled otherwise but that of M. Pacifico, who claimed £21,295 and was awarded £150.

21. **FRANCE** and **SPAIN**, in 1851. Question of indemnities arising from seizures by the fleets of both countries going back to the years, 1823-24, and especially relating to the Spanish ships, the "Veloce Mariana" and the "Vittoria" and the French frigate, "La Vigie." By the convention of Madrid, February 15th, 1851, the King of the Netherlands was chosen Arbitrator. His award was given April 13th, 1852, partly in favour of both, but the indemnity under the award was not settled before the convention of February 16th, 1862, by which the two Governments made themselves responsible for payment.

22. The **UNITED STATES** and **PORTUGAL,** in 1851. Nonfulfilment of neutral duty in permitting the destruction of the American ship, "General Armstrong," by a British fleet in the port of Fayal, in the Azores, belonging to Portugal, in September, 1814. Referred by a Treaty of the 26th February, 1851, to the Emperor of the French, who by his award, given November 30th, 1852, declared that the privateer was the aggressor, and that the Portuguese Government was not responsible for what had taken place. This instance of Arbitration is important as averting a serious conflict, which threatened between the two countries; and because the award entailed a curious legal process between the United States Government and the owners of the privateer for whom it was acting.

23. The **UNITED STATES** and **GREAT BRITAIN,** in 1853. Claim for value of slaves who captured the ship "Creole" and sailed to a British port, where they were liberated. Referred to a Commission, with Mr. Joshua Bates, of London, as umpire. American claims judged to be well founded. "No case

of Arbitration," said a writer in the *North American Review* "has ever been more successful than this. Damages were awarded in some thirty claims, and many important decisions were pronounced by this Commission."

24. **GREAT BRITAIN** and **PORTUGAL**, in 1855. Claim against Portuguese Government by Mr. and Mrs. Croft, arising out of a denial by the Portuguese administrative authorities of a patent of registration in reference to the payment of a marriage portion from the Barcellinhos family, the rights to which had been accorded to them by judicial decisions. The Senate of Hamburg was chosen Arbitrator. Award given February 7th, 1856, in favour of the Portuguese Government.

25. The **UNITED STATES** and **NEW GRANADA**, in 1857. Question of claims arising out of rights acquired by the United States on the Isthmus of Panama under Treaty with New Granada, of 1846, and especially for damages caused by a riot at Panama, 15th April, 1856. Referred under Convention concluded September 10th, 1857 (but ratified and proclaimed at Washington, November 8th, 1860), to a Mixed Commission, composed of two Commissioners and an umpire, who adjudicated on part of the claims only.

26. **GREAT BRITAIN** and **BRAZIL**, in 1858. Settlement of outstanding private claims. By a Convention signed at Rio de Janeiro, June 2nd, 1858, and ratified at London, September 9th, referred to a Mixed Commission of two members, with Umpire to be chosen by lot if necessary. They held their first Meeting in 1859.

27. The **UNITED STATES** and **CHILI**, in 1858. Claim of compensation for silver bars and coin, taken by the Chilian admiral, Lord Cochrane, from a brig, the "Macedonian," belonging to an American citizen, and sold by him for 70,400 piastres. The dispute must have ended in war. By a treaty concluded November 10th, 1858, it was referred to the King of the Belgians, whose award, given May 15th, 1863, sustained the American claims, and condemned Chili to refund three-fifths of the sum appropriated, together with interest.

28. The **UNITED STATES** and **PARAGUAY**, in 1859. Claims against Paraguay by the United States and Paraguay Navigation Company. After a naval demonstration by the United States, the question was referred by formal convention, signed February 4th, 1859, to a Commission of two members, one chosen by each country, with provision for choosing an umpire. The American Commissioner, on investigating the matter, concluded that his country had "no case." Notwithstanding this "on the ground that the convention admitted liability, and that the commissioners, by going into the merits of the case, had exceeded their competency, the United States repudiated the award, and has since endeavoured to settle the claim by negotiation." (Prof. J. B. Moore, New York.)

29. The **UNITED STATES** and **COSTA RICA**, in 1860. Pecuniary claims of citizens of the United States, arising from injuries "through the action of the authorities of Costa Rica." Referred to a Mixed Commission, by treaty concluded at San Jose July 2nd, 1860, ratified at Washington November 9th, 1861, the Umpire to be chosen by the other two members, or by the Belgian Minister to the U.S.A. It was thus settled.

30. **GREAT BRITAIN** and **PORTUGAL**, in 1861. Claims of Messrs. Yuille, Shortridge & Co., against Portuguese Government for losses incurred through breach of treaty. Referred to the Senate of Hamburg as Arbitrator. Award given in 1861.

31. **GREAT BRITAIN** and **BRAZIL**, in 1863. Imprisonment of three British naval officers from the ship "La Forte" at Rio de Janeiro on June 7th, 1862. Referred to the King of the Belgians, Leopold I., who decided, June 18th, 1863, that "in the mode in which the laws of Brazil had been applied towards the English officers, there was neither premeditation of offence, nor offence to the British navy."

32. The **UNITED STATES** and **PERU**, in 1863. Alleged illegal capture and confiscation of American ships, "Lizzie Thompson" and "Georgiana," which was referred to the King of the Belgians by an agreement, signed at Lima, December 20th, 1862. Other claims, by citizens of each country against the Government of the other, were, by a convention signed at Lima, January 12th, ratified April 18th, and proclaimed May 19th, 1863, referred to a Mixed Commis-

sion of four members (two chosen by each) and an Umpire, by which they were settled. The King of the Belgians declined to act, and the question referred to him was not settled until 1868 (which see, No. 44).

33. The **UNITED STATES** and **GREAT BRITAIN**, in 1863. By a treaty concluded July 1st, 1863. Hudson's Bay and Puget's Sound claims referred to two arbitrators, Hon. John Rose, of Canada, and ex-Judge Alexander Johnson, of New York, who awarded 450,000 dollars to the Hudson's Bay Company, and 200,000 dollars to the Puget's Sound Company. Their award was given September 10th, 1867.

34. **GREAT BRITAIN** and **PERU**, in 1864. The Senate of Hamburg arbitrated on claims for compensation, on account of the alleged false imprisonment and banishment from Peru of a British subject, Captain Thomas Melville White, who had been arrested at Callao (March 23rd, 1861), kept in prison at Lima (until January 9th, 1862), and expelled the country. An indemnity of £4,500 sterling was claimed on his behalf by the British Government. The award, which was given on April 12th, 1864, decided that the claim was based upon a partial and exaggerated statement, and was entirely inadmissible, inasmuch as the procedure adopted by the Peruvian law-courts had been quite regular and according to the laws of the country.

35. **GREAT BRITAIN** and **ARGENTINE REPUBLIC**, in 1864. Losses arising out of a decree issued by the Argentine Government on February 13th, 1845, prohibiting vessels from Monte Video from entering Argentine ports. Decided by a protocol of the 15th July, 1864, to submit the matter to Arbitration, and by a further protocol of January 18th, 1865, it was submitted to Jose Joaquin Perez, the President of Chili, who gave his award August 1st, 1870, in favour of the Argentine Republic.

36. **VICEROY OF EGYPT** and the **SUEZ CANAL COMPANY**, in 1864. Various disputes connected with the Suez Canal undertaking. Referred, at the request of the Viceroy, to the Emperor, Napoleon III., by whom it was decided against the Viceroy. The award was given July 6th, 1864, and was followed by a Firman of March 19th, 1868, determining afresh the concession to the Canal Company on the newly prescribed bases.

37 The **UNITED STATES** and **ECUADOR**, in 1864, Mutual Claims. By a treaty signed at Guayaquil November 25th, 1862, ratified at Quito July 27th, 1864, and proclaimed September 8th, 1864, referred to a Mixed Commission of two, consisting of a citizen of each State, who, with an umpire or Arbitrator, should undertake "the mutual adjustment of claims," which was done successfully.

38. The **UNITED STATES** and **COLOMBIA**, in 1864. Claims against the latter as representing the late Republic of New Granada, arising out of treaty rights on the Isthmus of Panama. These were the claims not determined by the former Commission (No. 25). Referred by a treaty concluded February 10th, 1864, and ratified 19th August, 1865, to a Mixed Commission consisting of two members appointed by each country and an umpire. Sir Frederick Bruce was chosen umpire. "Questions that would have been causes of war were thus settled quietly and equitably."

39. The **UNITED STATES** and **VENEZUELA**, in 1866. Claims by citizens of the United States, against the Government of Venezuela. Referred to a Mixed Commission by treaty, April 25th, 1866, ratified at Caracas April 17th, 1867. The Award was given in favour of the former; but see further, No 94.

40. **FRANCE** and **PRUSSIA**, in 1867. Question of surrender of LUXEMBURG to France, which was resisted by Germany. Submitted to a Conference of the Great Powers, which met in London, May 7th-11th, 1867, under the presidency of Lord Stanley. The Arbitrators agreed upon a treaty, guaranteeing the neutrality of the province, the retirement of the Prussian garrison, and the dismantling of the Fortress of Luxemburg.

41. **GREAT BRITAIN** and **SPAIN**, in 1868. The "Mermaid" difficulty. Claim for compensation for the loss of the schooner "Mermaid," of Dartmouth, loaded with coals for Ancona, which, in passing the forts of Ceuta on the 16th October, 1864, was fired at and sunk. By an Agreement between Great Britain and

Spain, signed at Madrid March 4th, 1868, the claim was referred to a Mixed Commission, consisting of four Commissioners, two to be named by each Government from persons belonging to the Diplomatic and Naval Services, with an Umpire to be named at their first meeting, and in case of disagreement as to the person to be chosen by lot out of two named by them. Decision given within three months from the first meeting of the Commissioners. It was in connection with this difficulty that the late Earl Derby in Parliament said, "UNHAPPILY THERE IS NO INTERNATIONAL TRIBUNAL to which cases of this kind can be referred, and THERE IS NO INTERNATIONAL LAW by which parties can be required thus to refer cases of this kind. *If such a tribunal existed, it would be a great benefit to the civilised world.*"

42. The **UNITED STATES** and **MEXICO**, in 1868. Various claims and counterclaims which had arisen since the Peace of Guadaloupe Hidalgo, in 1848. By a Convention, dated July 4th, 1868, these were referred to a Mixed Commission, consisting of two Commissioners, an American and a Mexican, together with an Umpire—Mr. Francis Lieber. This Commission was appointed for a term of three and a-half years, but in 1871 by a new Convention, concluded April 19th, it was prolonged to January 31st, 1873. In the interval a new Convention, dated November 27th, 1872, prolonged for two years the action of the treaty of 1868; but inasmuch as this Convention was not ratified by the Mexican Congress before January 31st, 1873, it was mutually agreed to modify its terms, so as not merely to prolong but to renew the Convention of 1868. Accordingly the revised treaty of 27th November, 1872, was ratified by both Congresses—by the U.S. Congress on the 8th March, and the Mexican on the 29th April, 1873. This treaty declared that the old Commission had ceased to act, and new Commissioners were appointed, Sir Edward Thornton, the British Minister at Washington, being chosen Umpire. On April 16th, 1874, the Umpire, Sir Edward Thornton, gave his award on the claims made by Mexico, in favour of the United States. Thereupon the United States' Commissioner abandoned all claims on the part of his countrymen against Mexico. After this award objection was raised, on the ground of false evidence and fraud, and the functions of the Commission were extended by a new Convention concluded November 20th, 1874, and those of the Umpire still farther until November 20th, 1876, by a Convention proclaimed June 29th, 1876. The Umpire gave his award that any attempt to re-open the subject was inadmissible—"That it was impossible to go back upon accomplished facts and an executed sentence." Some doubt remained, however, in regard to two of the principal awards in favour of the United States, and says Prof. Moore in 1891, "Pending efforts to secure a competent investigation of this charge, the United States has suspended the distribution of the money paid by Mexico upon them."

43. **GREAT BRITAIN** and **VENEZUELA**, in 1868. Claims of British subjects against Venezuelan Government, of which there were 79. By Convention signed at Caracas, 21st September, 1868, these were referred to two Commissioners, Dr. Juan de Dios Mendez and Geo. Fagan, British Chargé d'Affaires, who were to choose an Umpire by lot, if necessary. Their award was given at Caracas, November 15th, 1869. Total amount awarded, 312,587 dols.

44. The **UNITED STATES** and **PERU**, in 1868. The question of the seizure and confiscation of the ships "Lizzie Thompson" and "Georgiana," which had been referred to the King of the Belgians in 1863, and other claims were now by a new Convention, concluded at Lima, December 4th, 1868, ratified June 4th, 1869, and proclaimed July 6th, 1869, submitted to an Arbitral Commission of two members and an Umpire, the latter to be chosen by agreement or lot; and so settled.

45. **TURKEY** and **GREECE**, in 1869. Cretan insurrection. Conference of Great Powers, at the instance of Prussia, was called at Paris, January and February, 1869. Though not an Arbitration in the technical meaning of the word, yet, as involving the principle, it deserves to be reckoned among instances of successful Arbitration. The proposals of the Conference were accepted by Greece.

46. **GREAT BRITAIN** and **PORTUGAL**, in 1868. Rival claims to sovereignty over the island of Bulama, one of the Bisagos Islands at the mouth

of the Rio Grande River, Senegambia, on the West Coast of Africa, and to a certain portion of territory opposite to that island on the mainland. Referred under protocol of January 13th, 1868, to General Ulysses S. Grant, the President of the United States, whose award, given April 21st, 1870, was in favour of Portugal.

47. The **UNITED STATES** and **BRAZIL**, in 1870. Claim against Brazil, for the loss of the whale-ship "Canada." Submitted under a protocol of March 14th, 1870, to the British Minister at Washington, Sir Edward Thornton, whose award was favourable to the United States.

48. **UNITED STATES** and **SPAIN**, in 1870. Seizure of the steamer "Colonel Lloyd Aspinwall," by the Spanish authorities, in 1870. Submitted to Arbitration, and award of damages rendered in November of same year.

49. The **UNITED STATES** and **SPAIN**, in 1871. Claims which had arisen out of the last insurrection in Cuba, on account of the alleged wrongs and injuries committed by the Spanish authorities in that island. Submitted by diplomatic Agreement, concluded at the United States Legation, Madrid, February 12th, 1871, to a Mixed Commission composed of two Arbitrators, an American and a Spaniard, and an umpire, a citizen of a third power, which met at Washington, May 31st, 1871. Mr. Albert Klaeer, the Italian Minister at Washington, was appointed Umpire in 1879. This Commission adopted a special rule of procedure, and its labours were prolonged for several years. By a protocol signed at Washington, May 6th, 1882, they were extended to January 1st, 1883, but were actually concluded December 27th, 1882, the last decision of the Umpire bearing date February 22nd, 1883.

50. The **UNITED STATES** and **GREAT BRITAIN**, on the "Alabama" claims, in 1871. By the Treaty of Washington, May 8th, 1871, the dispute was referred to a High Commission, consisting of five members, nominated by America, Great Britain, Italy, Switzerland, and Brazil, viz., Mr. Chas. Francis Adams, Sir Alex. Cockburn, Count Ed. Sclopis, Mr. Jacob Staempfli and Viscount d'Itajuba. This Commission met December 5th, 1871, at Geneva, and on September 14th, 1872, gave its decision, which awarded 15,000,000 dollars (£3,000,000) to the United States. *This is one of the most important instances of Arbitration, and forms a distinct historical landmark.*

51. The **UNITED STATES** and **GREAT BRITAIN**, in 1871, about sundry claims, by the subjects of both countries, arising out of the Civil War. Referred by the Treaty of Washington, to a MIXED COMMISSION of three members, respectively appointed by Great Britain, the United States, and Spain, which sat until September 25th, 1873, when it adjudged the United States to pay £386,000 to Great Britain.

52. The **UNITED STATES** and **GREAT BRITAIN** (the SAN JUAN dispute), in 1871. A question of boundary, which involved the exact interpretations of the 1st Article of the Treaty of Washington of June 15th, 1846. On six different occasions the United States had refused Arbitration. It was now referred by the same Treaty (*i.e.* of Washington, 1871) to the Emperor of Germany, whose award, given at Berlin, October 21st, 1872, sustained the American claim.

53. The **UNITED STATES** and **GREAT BRITAIN** (about Nova Scotia Fisheries), in 1871. Referred to three Commissioners, Sir Alexander Galt, Mr. Ensign H. Kellog, and Mr. Maurice Delford, who met at Halifax, June 15th, 1877, and on the 23rd of the following November, awarded 5,500,000 dollars (£1,100,000) to Great Britain, the American Commissioner dissenting and withdrawing from the Arbitration. The award, however, was accepted, and the amount voted by Congress.

54. **JAPAN** and **PERU**, in 1872. Seizure of the Peruvian barque, "Maria Luz," engaged in the Coolie trade, in the Japanese port of Kanagawa, and the liberation as slaves of those on board. The dispute was getting embittered when it was referred to Alexander II., the Emperor of Russia, whose decision, given at Ems on May 17th, 1875, was in favour of Japan.

55. **GREAT BRITAIN** and the **UNITED STATES**, in 1872. Boundary from the N.W. angle of the Lake of the Woods to the Rocky Mountains, on the 49th parallel of latitude. Referred, under the treaty of 1846, to a Joint-

Commission, of which the American member was appointed under an Act of Congress, March 19th, 1872, and by which the delimitation was duly effected.

56. **GREAT BRITAIN** and **PORTUGAL**, in 1872, a dispute, which had lasted since 1823, about various territories and islands situated on Delagoa Bay. Referred in September, 1872, to M. Thiers, the President of the French Republic. His successor, Marshal Macmahon, by his award, on July 24th, 1875, decided that the Portuguese title was established to all the territories in question.

57. **GREAT BRITAIN** and **BRAZIL**, in 1873. Claim advanced by the Earl of Dundonald against the Brazilian Government. Referred to United States and Italian Ministers at Rio de Janeiro. On October 6th, 1873, they awarded the Earl of Dundonald nearly £40,000.

58. **CHILI** and **BOLIVIA**, in 1873. Disputed Accounts. The Minister of the United States at Santiago was chosen Arbitrator. (Given by Prof. J. B. Moore, and endorsed by Washington Conference on International Arbitration, 1896; but compare No. 65.)

59. **GREAT BRITAIN** and **FRANCE**, in 1873. Questions concerning duties levied in France on British Mineral Oils. By a Convention signed July 23rd, 1873, it was referred to a Joint Commission (Messrs. C. M. Kennedy and J. Ozenne), whose award was given in Paris January 5th, 1874, and adjudged to British claimants 314,393 francs.

60. **ITALY** and **SWITZERLAND**, in 1873. Disputed boundary between the Canton of Ticino and Italy. Referred December 31st, 1873, to a Mixed Commission, with the Hon. P. Marsh, the United States Minister at Rome, as Umpire, who, on September 23rd, 1874, decided in favour of Italy.

61. **CHINA** and **JAPAN**, in 1874. Murder of Japanese citizens by Chinese, in the Island of Formosa. The two Governments were on the point of appealing to arms, when the Cabinets of London and Washington induced them to have recourse to Arbitration, and the dispute was referred to Sir Thomas F. Wade, the British Minister at Pekin, who, in 1876, awarded an indemnity of 500,000 taels to be paid by China.

62. **PERSIA** and **AFGHANISTAN** (SEISTAN BOUNDARY), in 1874. This was a question to determine the boundaries of the Persian and Afghan territories, on the N.W. frontier of India, and had for years been the source of constant bickerings between the Shah and the Amir. Referred to two British officers, on behalf of the British Government, General Goldsmid and General Pollock, by whom, at the beginning of the year, was brought to a successful conclusion, "one of the most important boundary questions which our Government has had to decide."

63. **UNITED STATES** and **COLOMBIA**, in 1874. Claims for damages against Colombia for the capture of the American steamer "Montijo," in April, 1871, in Colombian waters, by insurgents in the State of Panama. Referred to a Mixed Commission, appointed under a Diplomatic Agreement of August 17th, 1874. Mr. Bunch, the English Minister at Bogota, was chosen Umpire, and the sum of 33,401 dollars was awarded to the United States.

64. **GREAT BRITAIN** and **COLOMBIA**, in 1875. Pecuniary claims of British Firm of Merchants (Cotesworth & Powell, of London), against Colombia. Referred to a Mixed Commission on January 5th, 1875, the Minister of the United States at Bogota being appointed Umpire. The Arbitrators agreed in a considerable award.

65. **PERU** and **CHILI**, in 1875. Disputed accounts in connection with the fleets of both Powers, which were in alliance. Referred to Mr. Logan, U.S. Minister at Valparaiso, whose award given, April 7th, 1875, adjudged to Chili a sum of 1,130,000 dollars, less 654,000 paid by Peru.

66. **GREAT BRITAIN** and **LIBERIA**, in 1876. Occurs in Mr. Dudley Field's list, and in a Memorial to Congress, but particulars not ascertained.

67. **ARGENTINE REPUBLIC** and **PARAGUAY**, in 1876. Boundary dispute. Referred by treaty of February 3rd, 1876, to the President of the United States. The decision of President Hayes was given November 12th, 1878, in favour of Paraguay.

68. **CHINA** and **JAPAN**, in 1879. Controversy respecting Annexation of the Loochoo Islands by Japan, which occasioned very hostile feelings in China. Ex-President Grant, of the U.S.A., who was on a journey round the world, was chosen Arbitrator, and by his good offices a compromise was effected, and the difficulty settled.

69. **GREAT BRITAIN** and **NICARAGUA**, in 1879. As to sovereignty over the Mosquito Indians. Referred to the Emperor of Austria, who appointed Herr Ungar, an Ex-Minister, and two Presidents of the Court of Cassation (Herr Schmerling and Herr Mailath) to act as Assessors. Award given at Vienna, July 2nd, 1881, in favour of Great Britain.

70. **FRANCE** and **NICARAGUA**, in 1879. Alleged illegal seizure, in the Port of Corinto, November 23rd, 1874, of a French ship ("The Pharos") laden with arms presumed to be for the use of the revolutionary party in Nicaragua. Referred, by an agreement dated October 15th, 1879, to the French Court of Cassation (Appeal), which had been selected by Nicaragua, and which, on July 29th, 1880, adjudged that State to pay 42,000 francs with interest.

71. The **UNITED STATES** and **FRANCE**, in 1880. Claims of compensation for injuries sustained by subjects of both Powers during the Mexican war of 1863, the American Civil war and the Franco-German war of 1870. By a Treaty concluded January 15th, and ratified June 23rd, 1880, these claims were referred to three Commissioners, one each appointed by the two Governments, and the third by the Emperor of Brazil. The labours of this Commission (which sat in Washington from November 5th, 1880, to March 31, 1884), not being terminated within the prescribed limit of two years, an extension of time (to April 1st, 1884), was granted by successive Conventions of July 19th, 1882, and February 8th, 1883, and its labours were continued until the claims were adjusted.

72. **TURKEY** and **GREECE**, in 1880. Question of territory. Settled by Arbitration of the Great Powers, under the Treaty of Berlin. The award of the Conference was signed at Berlin July 1st, 1880, and the decision of the Powers was given effect to in a treaty between Turkey and Greece, executed June 14th, 1881, under which the territory detached from Turkey, consisting of Thessaly and a part of Epirus, was ceded to Greece.

73. **CHILI** and **COLOMBIA**, in 1880. Dispute relative to the transportation of arms for Peru across the Isthmus of Panama. Referred by Convention, October, 1880, to the Arbitration of the President of the United States.

74. **COLOMBIA** and **COSTA RICA**, in 1880. Question of Boundary, as alluded to in various Treaties. By a Convention, signed at San José, December 25th, 1880, and ratified at Panama, December 9th, 1891, it was referred to the King of the Belgians, or failing him to the King of Spain or the President of the Argentine Republic. The Convention has this clause: "It is hereby agreed, and formally stipulated, that the question of limits, &c., shall never be decided by other means than those of Arbitration, as civilisation and humanity require."

75. **CHILI** and the **ARGENTINE REPUBLIC**, in 1881. A long-standing dispute about the Straits of Magellan and their land boundaries. Agreed to refer to Arbitration in 1878. Referred to the United States Ministers in those countries by Treaty of 23rd July, 1881, and their labours were concluded in September of that year. Boundaries settled; Straits of Magellan made for ever neutral, and its navigation free to all nations, and fortifications or military establishments on its banks forbidden. Experts to complete the details were appointed by a Convention signed at Santiago August 20th, 1888, and ratified January 11th, 1890.

76. **HOLLAND** and **HAYTI**, in 1881. Alleged illegal capture and confiscation of a Dutch ship, "Havana Packer," in August, 1877. Referred in March, 1881, to M. Grévy, the President of the French Republic, who condemned Hayti, March 16th, 1883, to pay an indemnity of 140,000 francs.

77. **COLOMBIA** and **VENEZUELA**, in 1882. A very delicate question of boundaries, which had been unsettled for fifty years. Referred to the King of Spain as Arbitrator, by a treaty signed at Caracas, September 14th, 1881,

ratified June 9th, 1882, and proclaimed July 6th, 1882. King Alphonso XII. accepted the duties, and began studying the question, but died before giving his award. The question then arose whether the mandate given to him extended to his successor. This was settled by the ministers of the two countries in the affirmative, and, by a protocol signed in Paris on 5th February, 1886, their decision was confirmed and the Queen Regent Christina, who undertook the Arbitration, gave her award in May, 1891, very favourable to Colombia.

78. **MEXICO** and **GUATEMALA**, in 1882. Question of boundary. Referred by a Treaty of 27th September, 1882, to Commissioners whose term of labour was extended by a protocol of 8th June, 1885, and prorogued by a Convention signed at Mexico October 16th, 1886, and ratified June 4th, 1887, for two years, ending 31st October, 1888.

79. **FRANCE** and **CHILI**, in 1882, about damages incurred by French subjects in the war between Chili, Peru, and Bolivia, called the Pacific war, through the operations of the Chilian forces. Referred, by Convention of November 2nd, 1882, to a Mixed Commission, consisting of three members, one to be nominated by the Emperor of Brazil, who appointed his Excellency F. Lopez Netto, Brazilian Minister to the United States, for all three Commissions (this and two following). This Commission began its work, but did not complete its functions, the question being settled by a special treaty between the two Governments, November 26th, 1887, the latter settling the claims by payment of a sum of 300,000 piastres.

80. **ITALY** and **CHILI**, in 1882. Claims by Italian subjects against the Government of Chili. Referred to a similar Mixed Commission of three, appointed by Italy, Chili, and Brazil, by Convention signed December 7th, 1882, ratified April 30th, 1883. The claims in this instance were settled by treaty, not by the Commission, in 1883, the Chilian Government paying 29,000 piastres for the claims pending.

81. **GREAT BRITAIN** and **CHILI**, in 1883. Similar claims. Referred to a similar Mixed Commission (see No. 79) on January 4th, 1883. This Commission, constituted March 1st, 1884, installed anew, June 26th, 1886, and by a Convention of August 16th, 1886, extended for six months longer, examined the different cases submitted to it, and allowed Great Britain 140,000 piastres. Awards, 1884-1887. Several claims were left unadjudicated upon, and by a protocol signed September 29th, 1897, a further sum of 100,000 dollars was paid in settlement of these.

82. **GERMANY** and **CHILI**, in 1884. Similar claims. Referred to a similar Commission by Convention of August 23rd, 1884. The Commission gave no award, and the matter was settled by secret Convention, August 31st, 1886, and a protocol of April 22nd, 1887.

83. **BELGIUM** and **CHILI**, in 1884. Similar claims. Referred to the Italo-Chilian Commission by a Convention of August 30th, 1884.

84. **AUSTRIA** and **CHILI**, in 1885. Similar claims. Referred to the Germanico-Chilian Commission by a Convention of July 11th, 1885.

85. **SWITZERLAND** and **CHILI**, in 1886. Similar claims. Referred to the Germanico-Chilian Commission by a Convention signed at Santiago, January 19th, and ratified October 7th, 1886.

86. The **UNITED STATES** and **HAYTI**, in 1884. Claims against Hayti on behalf of two American citizens, Captain Pelletier and Mr. Lazare, arising out of a charge of piracy against Captain Pelletier and the opening of a Bank by Lazare, and involving questions of administrative and judicial procedure. By a protocol signed May 24th, 1884, these claims were referred to Hon. Wm. Strong, formerly Judge of the Supreme Court, whose awards, dated June 13th, 1885, were adverse to Hayti. The United States, however, for what it deems valid reasons, has thus far declined to require their fulfilment.

87. **GREAT BRITAIN** and **GERMANY**, in 1884. Claims of British subjects as to the possession of certain islets and guano deposits, situated on the German Protectorate of Angra Pequêna, and neighbouring coast of South-west Africa. Referred to two Commissioners, Messrs. Bieber and Shippard, who early in 1885 failed to agree, whereupon Messrs. R. Kraul and Chas. S. Scott were appointed

Commissioners. Their awards were given at Berlin, July 15th, and formally accepted by Great Britain, October 23rd, and by Germany, November 13th, 1886.

88. **GREAT BRITAIN** and **SOUTH AFRICAN REPUBLIC,** in 1884. South Western boundary of South African Republic. By a Treaty signed at London, February 27th, 1884, referred to a Joint Commission, with a Referee appointed by the Orange Free State. The award of its President was given at Kynana, August 5th, 1885.

89. **GREAT BRITAIN** and **RUSSIA**, in 1885. (AFGHAN BOUNDARY.) Referred by a protocol, signed at London, September 10th, 1885, to a Joint Commission, on which Great Britain was represented by Sir J. West Ridgway, the Russian Commissioner being Colonel Kuhlberg. The work was completed August 21st, 1886.

90. The **UNITED STATES** and **SPAIN**, in 1885. The seizure and detention of an American ship, the "Masonic" at Manilla, for alleged smuggling. By an agreement of February 28th, 1885, the case was referred to Baron Blanc, the Italian Minister at Madrid. Award of 51,600 dols. to the United States, for Captain Blanchard, was given June 27, 1885—2,600 dols. more than was claimed.

91. **GREAT BRITAIN** and **GERMANY**, in 1885. Land claims of German subjects in Fiji. Referred to two Commissioners, one German and one English, who were instructed March 3rd, and gave their award on April 15th. Original claim £140,000. Award to Germany, £10,620. The German Ambassador wrote on May 18th to the British Government that he was authorised to accept the award, and to give his receipt.

92. **UNITED STATES** and **HAYTI**, in 1885. Claims of citizens of the United States growing out of civil disturbances in the island. Referred for adjustment on March 7th, 1885, to a Mixed Commission of two Americans and two Haytians, which completed its labours on the 28th of the following month.

93. **GERMANY** and **SPAIN**, in 1885. The sovereignty of the Caroline Islands. Referred to the Pope, who, on October 22nd, 1885, gave in favour of Spain the result of his mediation, which was considered equivalent to an award, and as such formed the basis of the treaty of December 17th, 1885, by which Spain was declared sovereign, and Germany was accorded freedom of navigation, commerce and fisheries.

94. **UNITED STATES** and **VENEZUELA**, in 1885. Re-submission to Arbitration of the claims against the latter country adjudicated upon in 1866 (see No. 39). Concerning this Prof. J. Bassett Moore, of Columbia Coll., N.Y. observes: "Only once have members of our Arbitral Boards been charged with fraud. But the conduct of the Claims Commission at Caracas, under the convention of April 25th, 1866, was so seriously impeached that the United States and Venezuela, by a treaty concluded at Washington December 5th, 1885, agreed to have the claims re-heard by a new Commission. This Commission, composed of an American, a Venezuelan, and a third Commissioner chosen by the other two who was also an American, sat at Washington from September 3rd, 1889, to September 2nd, 1890. Its proceedings were characterized by a conscientious and impartial discharge of duty."

95. **ARGENTINE REPUBLIC** and **BRAZIL**, in 1886. Question of the Misiones boundary. By an agreement signed at Buenos Ayres, 28th September, 1885, and ratified at Rio Janeiro, March 4th, 1886, it was referred to a Joint Commission of three, named by each Government, with three assistants, and the territories were neutralised till the accomplishment of its task.

96. **NICARAGUA** and **COSTA RICA**, in 1886. The validity of a Treaty of April 15th, 1858, delineating the frontiers, and of the right of the latter Republic to navigation on the River San Juan. Referred under treaty signed at Guatemala, December 24th, 1886, ratified at Managua, June 1st, 1887, to President Cleveland, of the United States, who gave his award March 22nd, 1888, in favour of the validity of the Treaty, and settling the various points at issue under it.

97. **ITALY** and **COLOMBIA**, in 1886. A dispute relating to the nationality of an alleged Italian subject who had been before the Colombian Courts, but had found asylum on board an Italian ship. Referred to the Spanish Government as

Arbitrator by protocol, signed at Paris May 24th, 1886. The award, in favour of Italy, declaring that Signor Cerruti, and the Italians who had given him asylum, had not infringed the laws of neutrality, was given in February, 1888.

98. **BAKWENA** and **BAMANGWATO,** in 1887. Arbitration by the Administrator of British Bechuanaland, represented by Captain Goold Adams, between these two African nations about rights to certain wells. Award, to the effect that the wells should be equally divided, joyfully accepted by both.

99. **GREAT BRITAIN** and **SPAIN,** in 1887. A marine collision between a Spanish man-of-war, "Don Jorge Juan" and a British merchant vessel, "Mary Mark," near Belize, July 9th, 1884. In April, 1887, Spain consented to Arbitration, and it ultimately was referred to a Mixed Commission, on which the Marquis Maffei, the Italian Minister at Madrid, was appointed Umpire. The award was given December 5th, 1887, by the two Arbitrators without appealing to the Umpire, and a small sum given to the owners of the British ship.

100. In 1888 also, a JOINT COMMISSION was appointed on the FISHERIES QUESTION, between **GREAT BRITAIN, CANADA,** and the **UNITED STATES.** The Commission completed its work and gave its award, but, by a strictly party vote and by a narrow majority, the American Senate refused to ratify its decision.

101. **UNITED STATES** and **HAYTI,** in 1888. Claim of C. A. Van Bokkelen, a citizen of the United States, for alleged arbitrary imprisonment and denial of rights. Under a protocol, signed May 22nd, 1888, Mr. Alex. Porter Moore, of the city of Washington, was appointed Arbitrator. His award, given December 4th, 1888, was averse to Hayti, and allowed the claimant suitable damages.

102. **PERU** and **ECUADOR,** in 1888. Question of ownership of a vast extent of territory east of Rio Bamba, watered by the rivers Tambez and Maragnon. Referred, by treaty signed at Quito, August 1st, 1887, and ratified April 14th, 1888, to the King of Spain, on whose behalf the Queen Regent, after long historical and geographical researches had been made, gave her decision.

103. **UNITED STATES** and **MOROCCO,** in 1888. Arrest of American consular *protégé* by the Moorish authorities at Fez. Indemnity demanded by American Government. Agreement between Mr. Lewis, the American Consul at Tangier, and the delegates of the Sultan, Muley Hassan, to refer to an Arbitral Commission, Mr. Lewis to name an umpire if necessary. Decision not ascertained.

104. **HOLLAND** and **FRANCE,** in 1888, in regard to boundaries between Cayenne and Surinam, *i.e.*, French Guiana and Dutch Guiana. The matter assumed importance, because of the discovery of gold fields in the disputed territory. Referred, on November 29th, 1888, to the decision of an Arbitrator. The Czar of Russia was chosen by common consent, but declined on the ground that the terms of the reference were too narrow. By a new convention, signed on April 28th, 1890, the scope of the reference was enlarged, and the Czar accepted the office of Arbitrator, after having received a formal assurance from the two Governments that his decision would be accepted as final. His award was given on May 25th, 1891, in favour of Holland, but without prejudice to rights of French settlers in the disputed territory.

105. **DENMARK** and the **UNITED STATES,** in 1888. Claim of Carlos Butterfield & Co., an American firm, against the Danish Government, in reference to the seizure of two American ships, the "Ben-Franklin" and the "Catherine-Augusta," at St. Thomas, in the West Indies, in the years 1854-5. By a convention signed December 6th, 1888, the case was submitted to the Arbitration of Sir Edmund Monson, the British Ambassador at Athens, whose award was given in favour of Denmark, January 22nd, 1890.

106. **BRAZIL** and **ARGENTINE REPUBLIC,** in 1889. Question of Boundary. Referred to President Harrison, by a treaty of September 7th, 1889, and settled by President Cleveland (who consented to act, June, 1893) in 1894, in favour of Brazil. The decision was the occasion of great rejoicing at Rio de Janeiro, while it was heartily accepted by Argentina.

107. **GREAT BRITAIN, GERMANY** and **UNITED STATES,** in 1889. Conflict on the Island of Samoa, arising out of their respective rights. A Conference of the Plenipotentiaries of the three Governments was held at Berlin, by

the final act of which, signed at Berlin June 14th, 1889, and ratified April 12th, 1890, it was decided to refer to the King of Sweden the appointment of the Chief Justice of Samoa, and, also, in order to adjust and settle all claims of aliens to titles of land, to appoint a Commission consisting of three members elected by each Government, together with an assistant, styled Natives' Advocate, who should be appointed by the Chief Executive of Samoa with the approval of the Chief Justice of Samoa.

108. **GREAT BRITAIN, UNITED STATES** and **PORTUGAL,** in 1890. Seizure of the DELAGOA BAY RAILWAY by Portuguese Government, and annulment of its charter. Referred, 13th June, 1891, to three Swiss Arbitrators, M. Blaesi, M. Heusler, and M. Soldau, who held their first meeting at Brunnen, August 3rd, 1891, when they drew up rules of procedure, and made other arrangements for the conduct of the Arbitration. A noteworthy point of the Anglo-Portuguese Convention, August, 1890, making the reference to Arbitration, was the insertion of a special clause, providing that *all differences* that may arise between the two Governments in their respective spheres of influence in South Africa, are to be *settled* by *Arbitration.* This convention was superseded by another, signed June, 1891. (Pending, Mar., 1897.)

109. **UNITED STATES** and **VENEZUELA,** in 1890. Concerning the seizure on the Orinoco, detention, and employment for war purposes in the Venezuelan Civil War, of certain steamships belonging to an American Company (the Venezuela Steam Transportation Company), and the imprisonment of their crews, American citizens. Referred, on July 12th, 1890, to a Mixed Commission, consisting of three Commissioners, one from each, and a third belonging to neither, which was to give its decision within three months. An award was made in favour of the United States.

110. **GREAT BRITAIN** and **GERMANY,** in 1890. Dispute between the British East African Company and the German Company of Witu, in regard to rights as to the farming of customs, and the administration of the Island of Lambu, East Coast of Africa. Referred to Baron Lambermont, Belgian Minister of State. Award given August 17th, 1890, in favour of Great Britain, accepted by both Governments, and published with their consent.

111. **GREAT BRITAIN** and **FRANCE,** in 1890. In reference to the French sphere of influence up to a line from Say, on the Niger to Barruwa, on Lake Tchad. By an agreement, signed August 5th, 1890, it was referred to a Joint Commission, consisting of two Commissioners from each country, whose award was signed at Paris on June 26th, 1891, and a further decision on the point left undecided by them, as to the line of demarcation, was signed July 12th, 1893, and ratified by both countries.

112. **PERSIA** and **AFGHANISTAN,** in 1891. A long-standing dispute which at one time threatened to prove serious, between Persia and Afghanistan, in reference to the frontiers of the two countries in the Hashtadan District. It had been referred to the Viceroy of India, who entrusted the adjustment of all the details to General Maclean, British Consul-General at Meshed, in January, 1891. Both the Shah and the Ameer ratified the decision of the British Referee, which was given in the Viceroy's name.

113. **GREAT BRITAIN** and **FRANCE,** in 1891, as to the Newfoundland Lobster Fisheries. Referred, on March 11th, 1891, to a Commission of seven, two representatives of each Government, and three specialists; these latter are: M. de Martens, Professor of law at the University of St. Petersburg; M. Rivier, formerly Member of the Supreme Court of Brussels, and President of the Institute of International Law; and M. Gram, Swiss Consul-General in Norway. (Pending.)

114. Between **PORTUGAL** and **CONGO FREE STATE,** in 1891, as to the Angola Boundary Question. Referred to the Pope in August, 1891. (Pending.)

115. Between **GREAT BRITAIN** and the **UNITED STATES,** in 1892, as to the Behring Sea Seal Fisheries. Referred by treaty, concluded February 29th, 1892, to a Commission of seven, consisting of Baron de Courcel, representing France (President of the Court); Lord Hannen and Sir John Thompson, Great Britain; Judge John T. Harlan and Mr. J. T. Morgan, United States; the Marquis Visconti Venosta, Italy; and Herr Gregers Gram, representing Sweden

and Norway. The Court sat in Paris, and on August 15th, 1893, gave its award in favour of Great Britain.

116. **FRANCE** and **VENEZUELA**, in 1892. Responsibility of the Venezuelan Government in a private lawsuit—that of a French contractor, M. A. Fabiani. The verdicts of the Venezuelan Law Courts were given in his favour, but the Government placed obstacles in the way of his obtaining their awards. Referred, February 24th, 1891 to the President of the Swiss Confederation, who was authorised, by the Federal Council, to accept the Mission, November 1st, 1892. The award of the Federal Council, which was given on December 30th, 1896, by M. Adrien Lachenal, recognises the justice of the claim and fixes the indemnity which the Venezuelan Government will have to pay M. Fabiani at 4,346,656 francs instead of 46,000,000 as demanded.

117. **COLOMBIA** and **VENEZUELA**, in 1892. Boundary Dispute. Referred to Spain, which decided in favour of the former country; but Venezuela was dissatisfied, and the matter was not finally closed.

118. **UNITED STATES** and **CHILI**, in 1892. Various claims, amounting to 385, of subjects of both countries, dating back to 1849 and 1850. By agreement of August 7th, 1892, referred to a Mixed Commission, consisting of two Arbitrators and an Umpire, Dr. de Claparede, Swiss Minister at Washington, being appointed by the Swiss Federal Council in the latter capacity. The Commission met at Washington, under the presidency of the Umpire, and dealt with claims amounting to £3,877,000, allowing only £48,000 against Chili, sixteen claims involving a total of £1,800,000 not having been dealt with.

119. **GREAT BRITAIN, RUSSIA** and **AFGHANISTAN**, in 1893. Vexed questions regarding the use by Afghans and Russians respectively of the waters of the River Kushk, on the N.W. frontier of Afghanistan. Referred to an Anglo-Russian Joint Commission. Colonel Yate, who had been British representative at Penjdeh, was selected to represent Great Britain, and the Commission was directed to settle these questions on the spot, which was done.

120. **GREAT BRITAIN** and **FRANCE**, in 1893. Greffühle Concessions. The Arbitration was to ascertain the amount (if any) of damages to M. Greffühle, a French subject, by reason of the English protectorate over Zanzibar, M. Greffühle having a contract from the Sultan, extending over a term of years, for the exclusive mintage of coin for the use of the Sultanate. The Arbitrator appointed was Mr. R. B. Martin, M.P., without power of appeal, and his award was given, July 19th, 1893, in favour of M. Greffühle.

121. **UNITED STATES** and **ECUADOR**, in 1893. Alleged illegal arrest of an American citizen at Quito. By agreement of February 28th, 1893, submitted to Arbitration, the British Minister at Quito, Mr. St. John, being requested to act as Arbitrator. Before he had completed his examination of the evidence submitted to him, the parties agreed upon an award of 40,000 dollars to M. Santos. Mr. St. John agreed to put this arrangement on record, and stated in his award in September, 1896, that the parties having solicited sentence in favour of the claimant, he decided that Ecuador should pay 40,000 dollars to the United States Government.

122. **BOLIVIA** and **CHILI**, in 1893. Claims of Peruvian Bondholders. Referred to the President of the Swiss Federal Supreme Court of Justice. In March, 1893, Señor Mattee, Chilian Minister in Paris, was directed by his Government in Valparaiso, to proceed to Berne, in order to obtain the consent of the Swiss Government. Result not ascertained.

123. **JAPAN** and **COREA**, in 1893. Difficulty arising out of the prohibition of coffee and grain by the latter. Settled by intervention of President Cleveland, of the United States, who directed the United States Ministers at Tokio and Seoul to use their good offices for an adjustment of the differences.

124. **GREAT BRITAIN** and **CHILI**, in 1893. Claims of British subjects arising out of the Chilian Civil War of 1891. Referred by a Convention, concluded September 26th, 1893, and ratified at Santiago, April 24th, 1894, to a Mixed Commission to consist of a member appointed by each Government, and a third appointed by both jointly, but belonging to neither, and in case of their disagreement, by the King of the Belgians. They held their first meeting, and adopted

rules of procedure, October 24th, 1894. There were 130 claims, amounting to £259,431. These were variously dealt with. Sums amounting to £17,852 were awarded, and a lump sum was ultimately paid by the Chilian Government for all claims outstanding at the last session of the Commission, March 6th, 1896.

125. **CHILI, FRANCE** and **PERU**, in 1894. Relative to a sum of money derived from the sale of guano. Referred June, 1893, to a Court of Arbitration appointed by the Federal Council of Switzerland, which was authorised to act, by the Swiss Federal Council, March 24th, 1894. The Court was composed of three members of the Federal Tribunal of Justice, viz., Dr. Hafner, President, and Messrs. Broye and Morel, who were to decide the procedure to be adopted, and all questions which should arise. (Pending, March, 1897.)

126. **ITALY** and **COLOMBIA**, in 1894. Claim for reparation for the treatment of an Italian subject. Submitted to President Cleveland for Arbitration.

127. **COLOMBIA, ECUADOR**, and **PERU**, in 1894. By a Convention, signed at Lima, by the Plenipotentiaries of these countries, December 15th, 1894, it was agreed to submit to Spain, as Arbitrator, the question of ownership of a portion of the Amazonic region, claimed by each of those nations. The Queen Regent, early in 1896, herself, by unanimous request, accepted the office. (Pending.)

128. **GREAT BRITAIN** and **PORTUGAL**, in 1894. Differences with regard to the frontiers of Manicaland. By treaty, signed at Lisbon, June 11th, 1891, which defined the spheres of influence of both countries, it was agreed that these should be decided by an Anglo-Portuguese Commission, with umpire if necessary. In 1894, submitted to the Italian Government, by whom Count Vigliani, a distinguished lawyer, who was Minister of Justice and President of the Court of Appeal, was appointed Umpire. His award was given on February 1st, 1897, and the decision, which delimitated the frontier, was partly in favour of each.

129. **RUSSIA** and **AFGHANISTAN**, in 1895. Delimitation of Pamir Boundary. By an agreement entered into between Great Britain and Russia in March, 1895, it was referred to an Anglo-Russian Joint Commission on which Colonel Girard represented Great Britain. Its work was completed satisfactorily in 1895, and, according to Col. Girard's testimony, with the utmost cordiality between the representatives of the two Governments.

130. **GREAT BRITAIN** and **NICARAGUA**, in 1895. Alleged personal injuries to British Subjects, including Mr. Hatch, Vice-Consul at Bluefields, &c. Proposed to refer to a Mixed Commission, the President of the Swiss Confederation requested to name Umpire. Negotiations—February, 1897—still proceeding.

131. **PERU** and **BOLIVIA**, in 1895. Claim of Bolivian Government, arising out of the presence of some soldiers on board one of the Lake Titicaca steamers in the late Peruvian civil war, and the escape of Peruvian soldiers to Bolivian territory after a battle. Monsignor Macchi, Apostolic Delegate to Peru, and the French, Italian and Colombian Ministers at Lima, secured, through their interference, a reference to Arbitration, and on September 7th, 1895, an agreement to that effect was signed at Lima, designating Brazil as Arbitrator, or, in case of refusal, Colombia. (Pending, March, 1897.)

132. **HAYTI** and **SAN DOMINGO**, in 1895. Delimitation of frontier. Referred to Pope Leo XIII. as Arbitrator, by autograph letters from Presidents of both countries, Gen. Hippolyte and Gen. Peureaux, to whose request His Holiness acceded. Commissioners sent to Rome to present their respective claims, and received at the Vatican. A despatch, dated Jan. 24th, 1897, announced that the Pope had declined to act in view of the claims formulated by the Haytians.

133. **GREAT BRITAIN** and **FRANCE**, in 1892. Delimitation of frontier between French Guinea and Sierra Leone. Referred to a technical Commission of two, to be appointed by each country, who should determine the territorial limits by enquiry on the spot.

134. **GREAT BRITAIN** and **HOLLAND**, in 1895. Question of indemnity for the ship "Costa Rica Packet," which was seized by the Dutch authorities at Ternate, in the East Indian Archipelago, November, 1891, on a technical charge of

piracy, and arrest of captain. According to the terms of the Convention referring the question to a Commission, the Emperor of Russia has (in September, 1895), by request of the two Governments, named M. de Martens, Councillor of State at St. Petersburg, as Arbitrator. His decision, announced March 1st, 1897, awarded £8,550, with interest from November 2nd, 1891, to be paid by the Dutch Government, together with a further sum of £250 as costs.

135. **GREAT BRITAIN** and the **UNITED STATES**, in 1896. Amount of damages due to Canadian Dealers, resulting from the award of the Behring Sea Arbitration Court, in Paris, August, 1893. By a convention signed in February, 1896, and ratified by the Senate in Executive Session, April 15th, 1896 (ratifications exchanged in London, June 3rd, 1896) a Mixed Commission was appointed, two members by the respective countries, with an umpire, if necessary, to be appointed jointly, or, in the case of non-agreement, by the Swiss President. The United States Government, by this treaty, fully discharges its obligations under the Paris Arbitration. Mr. Justice King. of the Canadian Supreme Court, was appointed by Great Britain. and Mr. Justice Putnam, of Maine, by the United States. The sittings of the Commission were held at Victoria, B. C., and on February 1st, 1897, their conclusion was celebrated by a farewell dinner; the written argument for Great Britain to be sent in by March 31st, and that for the United States by May 10th, 1897. (March, 1897, Pending.)

136. **ARGENTINE REPUBLIC** and **CHILI**, in 1896. Frontier difficulties. These had recently become complicated by fresh difficulties, arising out of the interpretation of the treaty in relation to the San Francisco boundary. After some delay, Argentina expressed its willingness to accept Arbitration on the point as desired by Chili, and it was agreed to refer to a Commission, Queen Victoria being requested to act as final Arbitrator if necessary, to which request Her Majesty acceded. (March, 1897, Pending.)

137. **GREAT BRITAIN** and **COLOMBIA**, in 1896. Dispute between a British firm and a Provincial Government in Colombia, respecting construction of a railway between the river Magdalene and the town of Medellin. Referred, 12th August, 1896, to a Court of three Arbitrators, which the Swiss Federal Council commissioned February 2nd, 1897, at the request of the two Governments, the Court consisting of Dr. Schmid, Dr. Weber, Jurists, and M. Weissenbach, Ex-Director of the Swiss Railways. (March, 1897, Pending.)

138. **GREAT BRITAIN** and **BRAZIL**, in 1896. Annexation of Islet of Trinidad by British Government in January, 1895. After great excitement in Brazil and diplomatic correspondence between the two Governments, the "good offices" of Portugal were accepted, and, when reasons for her decision had been submitted to the British, the island was, on September 1st, 1896, surrendered to Brazil.

139. **GREAT BRITAIN** and **VENEZUELA**, 1896. A long-standing dispute respecting territory which had become valuable through the discovery of gold. On behalf of Venezuela the United States demanded Arbitration. It also appointed independently a Commission to examine the question. By a Convention between Great Britain and the United States, signed at Washington, November 12th, 1896, an Arbitral Tribunal was appointed to determine the boundary line between British Guiana and Venezuela, consisting of four members to be appointed by the two Governments, and a fifth to be appointed by the other four, or, failing agreement, by the King of Sweden. To this agreement Venezuela acceded, but claimed the right of representation on the Tribunal. The treaty was signed February 2nd, 1897, at Washington, Lord Herschell and Mr. Justice Richard Henn Collins, of the English Supreme Court of Judicature, being appointed on behalf of Great Britain, and Chief Justice Fuller and Mr. Justice Brewer, of the United States Supreme Court, on behalf of Venezuela.

140. **GREAT BRITAIN** and the **UNITED STATES**. The boundary between Alaska and the British possessions. By a Convention signed Jan. 30th, 1897, by Mr. Olney and Sir Julian Pauncefote, referred to a Commission of four members, which were to hold their sittings both in London and Washington. (March, 1897, Pending.)

ANGLO-AMERICAN ARBITRATION TREATY, Signed January 11th, 1897.

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